Supreme Court, U.S.
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No. 04-1084

In the Supreme Court of the United States

ALBERTO R. GONZALES, ATTORNEY GENERAL, ET AL.,
PETITIONERS

v.

O CENTRO ESPIRITA BENEFICIENTE UNIAO DO VEGETAL, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JOINT APPENDIX

(VOLUME 2)

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PETITION FOR A WRIT OF CERTIORARI FILED: FEB. 10, 2005
CERTIORARI GRANTED: APR. 18, 2005

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Department Directors and Secretariat
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e-mail: demec@udv.org.br

DEMEC—Medical-Scientific Department of the UDV

Summary of Case No. 21

I. Identification (at notification time):
Administrative Unit: São João Batista Núcleo
Initials: J.C.B.
Marital Status: single
Age: 38 (October 1999)
Sex: male
Profession: electronics technician
Experience Using Tea: from 1998 to August 1999
UDV Level: members cadre
Date notified: October 1999

II—Observed Situation Report: according to the first visit with psychologist Eunice Brito, after showing up at the Núcleo in August, 1999, after two months away from the UDV sessions, subject was perceived to have symptoms of mental confusion and slowness, with difficulty putting together thoughts, and inarticulate speech. A very small amount Hoasca tea was administered and subject was instructed to seek help from mental health professional by both the psychologist and núcleo administrators.

III—Personal and Family Background: in interviews with the subject we found: he was absent from sessions during the months of July and August, 1999, and unaware of that. Subject relates that for approximately three months subject has been suffering from fears, irritability, difficulty concentrating and cramping with Hoasca use, claiming to feel confusion following the

sessions. Subject relates that during the same period, subject had difficulty swallowing the tea, vomiting repeatedly after its ingestion, but nonetheless had apparently strong *burracheiras* which ended five hours after the closing of the sessions.

Subject relates that since he began attending the UDV, he felt emotional during the sessions, alternating between laughing and crying. Subject says that prior to beginning of the sessions he felt anxious and had trouble standing. In August/99 subject understood more clearly the depth of his confusion, losing track of time, for subject made two out-of-state trips and only realized it afterward.

Subject relates that since adolescence he frequently forgot things, had wandering thoughts and could not handle sequential reasoning—also with restless sleep and nightmares. Subject relates that such manifestations worsened in recent months, interfering with his concentration at work.

Subject's main worry is from having acted impulsively in the presence of a 3-year old niece, at which time, while extremely irritable, subject smashed a PVC plastic plate on the ground, which reminded him of past explosive and extremely violent outbursts, with loss of consciousness.

Subject tells of having drunk Hoasca tea in a Santo Daime church in 1994 some seven times, and went no further because he felt a lack of orientation [or guidance] during that experience. Subject has always been connected with spiritual searches, including martial arts and religions. Subject trained in Kung Fu, aikido, and especially judo, including tournaments. Subject tells that before these he often felt very nervous, not

taking nourishment and having successive fainting spells. Subject claims to have suffered memory lapses on various occasions in life.

Subject states that at age 14 he violently struck a judo classmate who hit him in the testicles. He actually caused arm and collarbone fractures from not feeling the pain and the force he exerted. At age 23-24 he had violent reactions and enjoyed them: five (5) boys gave him dirty looks and he knocked them out for that. In 1990, on a bus, he had his most violent reaction in an altercation with a boy who was disrespecting some girls. Likewise in the situation he was unaware of himself and felt no pain. Some years ago, at home alone, he had a sort of crisis with loss of consciousness, fracturing a jaw and breaking 4 teeth. Subject explains that he has not been training martial arts these past 10 years, feels tired, loss of strength, and has gained 22 pounds this past year. In recent months he has been working a lot and sleeping little.

Subject further explains that for some seven years he has been having delusions, feeling cornered, trapped, and also told of having delirious feelings of some vague persecution.

With regard to recreational drug use, subject tells of having smoked marijuana once at age eighteen with non consequences.

Subject lives with his 78-year old mother, the father having died in 1992 from acute myocardial heart attack.

IV—Diagnosis: CID: F.20.9—unspecified schizophrenia.

V—Developments: by order of the Representative Mestre subject was immediately barred from communion with Hoasca tea until further notice, and

referred for psychiatric and psychotherapeutic treatment, and did not return to Hoasca use.

Subject was administered neurcleptics and tranquilizers by the psychiatrist, in conjunction with psychotherapy with a psychologist. Inasmuch as subject was showing significant improvement in mid-2000, the medication was suspended and subject kept in psychotherapy.

In June of 2001 subject again showed worsening confusion, necessitating again the administration of neuroleptic medication and low doses for satisfactory control.

VI—Relation of Tea use to clinical situation:

Our understanding is that Hoasca tea use was a factor in renewal of acuteness (category 2) in the event observed in August 1999, for examination reveals significant psychiatric history and clinical psychosis symptoms antedating Hoasca tea use.

VII Current Situation, regarding:

1. Using Hoasca tea: none taken since August, 1999

2. Fraternization with the brotherhood: maintains occasional friendly contact with a few closer friends.

3. Home life: still single and living with his mother

4. Job situation: a regular worker, relatively satisfactory.

VIII—Last Revision: October of 2001.

IX—Professional in Charge: Dr. Francisco Assis de Sousa Lima—psychiatrist

(signed) Dr. Francisco Assis de Sousa Lima CRM 25257

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Rua Caiubi 1004, CEP 05010-000 São Paulo
Phone/fax 11-3673-8298

DEMEC—Medical-Scientific Department of the UDV

Summary of Case No. 22

I – Identification (at notification time):
Administrative Unit: Samaúma Núcleo
Initials: C.M.O.
Marital Status: single
Age: 23 (February 1999)
Profession: farmer
Experience Using Tea: since 1998
UDV Level: members cadre
Date notified: February of 1999

II – Observed Situation Report: During the last week of January/99, some ten days after partaking of Hoasca tea, subject showed behavioral changes. Had four sleepless nights, did not eat, had aggressive reactions and state of mental confusion. Frequented Umbanda ceremonial grounds, began eating plants such as lawn grass. Also drank swamp water and swallowed a piece of chlorine. His mother says that he made flower and candle offerings to lemanjá (spirit entity) at home, and that he felt threatened and persecuted.

[She] said that as a boy "they had stitched his mouth to a frog [sic]" and alluded to black magic, and was getting negative signals of this sort. His offerings were intended to offset such negative feelings, which even emanated from his mother. Asked if he had used any substances before the events, he replied that he'd only drunk nightshade tea. Denied having visual or auditory hallucinations, but apparently intended suicide

and threatened to run away from home to parts unknown for suicide purposes.

III – Personal and Family Background: Tells of recreational drug use of use since age 18, beginning with marijuana, followed by alcohol abuse [cane whiskey], inhalants (thinner and ether) and cocaine. Also referred to using nightshade tea and crack cocaine, which use subject explained was not continuous, except in the case of marijuana, used for longer. And on a daily basis "to work faster" (sic). Subject used crack for approximately four months in 1997, which use was interrupted after they delirium episode in which subject felt panic; a strong sensation that armed men were coming to beat him.

Between ages 16 and 21 subject went to many churches, starting with the Catholic Church, followed by Protestant: "Bible Pentecostal," "Assembly of God," and "God is Love."

[Subject] relates that since the age of six, when parents separated, subject has lived in the town of Salto de Itu with the father, losing touch entirely with the mother and some siblings who remained with the mother.

Subject claims to have always been nervous, irritable, truculent and mean, with impulses to kill if at all crossed. At approximate age of 15-16 subject twice came to the verge of suicide: almost jumped off a bridge and nearly grabbed hold of a high-voltage power line tower.

Subject presents his life as one of suffering, unbearable suffering which filled him with revulsion. Asked about what may have brought on the recent crisis, subject claims that everything began with the

boss lady insisting that he perform cleanup work at the farmhouse of residence, beyond its boundaries, and threatened to evict him and his family (which indeed happened immediately after the crisis). This greatly increased worries over unemployment.

Regarding re-establishing family relations with the mother, subject relates that at age 21, after using crack, he felt he should look her up to learn about his past and reduce his suffering. So it went, and after moving in with the mother, subject evinced an interest in attending the UDV. At the request of the mother, who was seeking for her son some religious guidance and social restructuring, the Representative Mestre considered his entry into the UDV and requested a psychiatric evaluation. In view of prior drug abuse and borderline condition, subject was medicated with Carbamazepin 200mg, it being suggested to the Representative Mestre that Hoasca tea doses be small. This suggestion was followed. After two months the medication was discontinued but monitoring—even by relatives—was difficult. Since the subject appeared to be relatively under control, tea use was kept at the recommended dose.

IV – Diagnosis: unspecified schizophrenia (CID-10; F20.9) plus drug abuse (antecedents CID-10:F-19)

V – Developments: subject was admitted to a psychiatric hospital in the city of São Paulo for approximately ten days, medicated with neuroleptics and apparently improved.

Upon release from the hospital subject was monitored as an outpatient at a Basic Health Unit, medicated with risperidone and monitored clinically. In August of 1999 subject interrupted treatment of own

accord, and underwent another psychotic episode in 2001. Several weeks following admission, subject fled the psychiatric ward and returned home. According to his mother he has been keeping relatively stable, although still refusing formal psychiatric treatment. Monitored since then by this professional through frequent contact with relatives.

With regard to Hoasca tea use, the Representative Mestre promptly suspended Tea use until further notice, and so it stands.

Following subject's first discharge from the hospital, some steps were taken to create a comforting environment for the subject so as to motivate and ease his re-entry into the religious community, even though barred from partaking the tea. Among these, subject was authorized to participate in a few sessions, albeit with no tea.

Despite all efforts, subject's refusal to accept psychiatric treatment and successive recidivism eventually defeated that strategy, and of course precluded further use of Hoasca tea.

After repeated episodes of socially inappropriate behavior, subject was excluded from fraternizing with the UDV brotherhood, and is monitored by the UDV directors through relatives.

VI – Relation of tea use to clinical situation: we believe that Hoasca tea contributed as a predisposing factor in the psychotic episode of January/99, but played no role in later episodes (when he no longer partook of it)

In addition to history indicating prior psychosis —until then unknown to relatives—the clinical situation observed did not immediately follow use of the tea, and other factors may also have contributed toward

bringing that on, such as losing his job, threatened eviction, and swallowing poison.

VIII – Current Situation, regarding:

1. Hoasca tea use: barred from Hoasca communion since situation's onset.
2. Fraternity with the brotherhood: sent away
3. Home life: according to his mother, subject's behavior is unstable, sometimes markedly aggressive.
4. Job situation: has been receiving health-related dole from the National Social Security Institute and doing occasional odd jobs.

VIII – Last Revision: September/2001.

IX – Professional in Charge: Dr. Francisco Assis de Sousa Lima – psychiatrist

(Signed) Dr. Francisco Assis de Sousa Lima
CRM 25257

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e-mail: demec@udv.org.br

DEMEC—Medical-Scientific Department of the UDV

Summary of Case No. 23

I. Identification (at notification time):
Administrative Unit: Samaúma N.
Initials: J.P.T.
Marital Status: single
Age: 30 (Nov. 1999)
Profession: public relations and administrative assistant
Experience Using Tea: since 1985
UDV Level: Instructive Body
Date notified: November of 1999

II—Observed Situation Report: subject relates that in October of 1998 he was under intense emotional pressure, having suffered significant losses: during his last year of college he underwent the breakup of a meaningful relationship and was fired from the job he had worked at for 14 years. Subject claims that on the occasion he had sharp depressive symptoms, and began using fluoxethine without a medical prescription. Subject sought out the DEMEC mental health professional to admit to having been using the medication.

III—Personal and Family Background: subject spoke of having had traumatic experiences since early childhood, the most significant being an automobile accident and approximately age 20, in which he suffered serious burns—while caught in the wreckage—over his entire body, amounting to one huge burn and calling for specialized plastic surgery up until now. Subject has

already had more than 30 surgical procedures so far with important appearance consequences.

Subject relates that some months following the accident he began to feel "strange," due to significant changes and his life.

In November of 1993 subject for the first time sought psychiatric guidance, complaining of a "fog in the head," "stunned feeling," causeless remorse, hot forehead, nape and neck, and sluggishness at work. Diagnosis at the time was moderate depression and subject was medicated with imiprazine, which treatment was discontinued after some weeks following clinical improvement.

Subject developed relative stability, with periods of deeper sadness, albeit without significant loss of functionality.

Subject relates that his father, mother, two sisters and one brother have depressive histories (two of them attended the UDV: see summaries of cases 09 and 10)

IV—Diagnosis: Recurring Depressive Disorder (CID-10: F33.9)

V—Developments: subject was advised to continue formal psychiatric treatment, and was kept on the same medication by the assistant psychiatrist. At the UDV, at DEMEC's suggestion, the Representative Mestre ordered a decrease in Hoasca tea taken. Subject's clinical picture improved and stabilized, relatively speaking.

In early 1999 subject traveled abroad, remaining there nearly a year without partaking of Hoasca tea. Subject states that during the first months of his stay he was well but later began showing symptoms of

depression which sharpened shortly before his return to Brazil.

Two months after said return, subject had worsening, depression symptoms, and used fluoxethine for two months, replaced by venlafaxine in mid-2001, which medication he used for one year.

Currently on no medication with condition relatively compensated.

VI—Relation to Tea use to clinical situation: no causal connection (category 4)

VII—Current Situation, regarding:

1. Hoasca tea use: regularly attending sessions drinking reduced amounts of tea

2. Relations with the Brotherhood: stable, with good social adaptation

3. Home life: still single, living with mother and siblings.

4. Job situation: doing temporary work in computer-related service area.

VIII—Last Revision: September of 2001

IX—Professional in Charge: Dr. Francisco Assis de Sousa Lima—psychiatrist

(signed) Dr. Francisco Assis de Sousa Lima CRM 25257

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e-mail: demec@udv.org.br

DEMEC—Medical-Scientific Department of the UDV

Summary of Case No. 24

I. Identification (at notification time):
Administrative Unit: São João Batista N.
Initials: R.M.
Marital Status: separated
Age: 31 (in 1999)
Sex: male
Profession: general helper, no steady job (under-the-counter)
Experience Using Tea: since 1991, on and off
UDV Level: members cadre
Date notified: June of 1995

II—Observed Situation Report: subject was referred for psychiatric evaluation by a psychologist from the DEMEC Mental Health Commission by request of the Representative Mestre. The reason for the referral was renewed cocaine use and quarrels with his wife.

III—Personal and Family Background: subject used drugs from age 15, and was a frequent marijuana user till age 23, cocaine ages 18 through 22; and amphetamines and whiskey for a year. Subject was admitted five times between 1990 and 1991 for aggressive and self-destructive behavior. Subject became agitated, confused, imagined shadows, talked to himself, and seemed to hear voices. Subject claims to have always been bitter, and never understood why he was in an orphanage as a child and felt rejected. Subject mentions a broken home, separated parents, marijuana use,

excessive smoking and drinking. Stepfather also drank and struck the mother. Father died of stroke at age 44, when the patient was 13 years old. Maternal grandfather was also alcoholic. Patient claims his older brother was "nervous." [Irritable—tr]

IV—Diagnosis: drug abuse (CID-10: F19) + personality disorder (F60.9)

V—Developments: patient was initially medicated with carbamazepine and prescribed psychotherapy in 1995. Patient abandoned the proposed medication treatment some months later.

Following psychiatric evaluation, at which he seemed relatively stable, subject began regularly participating in UDV sessions. In October of 1997, subject submitted to the Hoffman Quadrinity Process.

In mid-1998 subject again began using cocaine, crack and marijuana, and claims that such behavior—while still partaking of Hoasca tea—was to due to the impending break-up of their marriage, unemployment and emotional imbalance. Subject was barred from communion with Hoasca tea until further notice due to again having used the abovementioned substances. Resumption of psychiatric treatment subject had abandoned was made a prerequisite for again partaking of Hoasca tea.

Only in January of 1999 did subject again seek psychiatric help, and was admitted for ten months in a rehabilitation institution for drug abusers.

After being discharged, subject obtained separation from his wife and moved to another state in Brazil, but kept in contact intermittently with DEMEC mental health professional through his ex-wife.

VI—Relation to Tea use to clinical situation: no casual relation (category 4)

VII—Current Situation, regarding:

1. Hoasca tea use: still barred from the UDV
2. Relations with the Brotherhood: intermittent contact through ex-wife
3. Home life: separated, living in another state with mother
4. Job situation: no steady job

VIII—Last Revision: October/2001

IX—Professional in Charge: Dr. Francisco Assis de Sousa Lima—psychiatrist

(signed) Dr. Francisco Assis de Sousa Lima 25257

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
This form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
Please note that this is being done in such manner as to preserve your anonymity: hall information herein contained is confidential and the release of any results will not identify the persons filling out the form.
We are grateful for your participation.

Identification:

1-Administrative Unit: Pau D'Arco núcleo	2- Sex: Male [ ] Fem [x]
3-Initials: SMMS	4- DOB: 12/23/51
5-Contact telephone number: (optional, for clarification purposes)37221816	6-Experience using Hoasca tea: 6 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Tolrest (sertaline)	50 mg 1 x daily	6 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever **fainted** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt **excessive drowsiness** during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
4. When using the medication(s), have you ever experienced **mental confusion** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had **convulsions** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your **heart beating very fast** (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
7. When using the medication(s) have you ever felt **all of your muscles become rigid** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed **significant motor control changes** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]

Department Directors and Secretariat
Rua Caiubi 1004, CEP 05010-000 São Paulo-SP Phone/fax 11-3673-8298

NOTE: If you have anything to add, please use the other side of this form.
[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd1.002016

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Department Directors and Secretariat
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DEMEC_____
--Medical-Scientific Department of the UDV

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
This form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
Please note that this is being done in such manner as to preserve your anonymity: hall information herein contained is confidential and the release of any results will not identify the persons filling out the form.
We are grateful for your participation.

Identification:

1-Administrative Unit: Princesa Mariana núcleo	2- Sex: Male [x] Fem [ ]
3-Initials: MANT	4- DOB: 12/7/75
5-Contact telephone number: 99955809 3262247 (optional, for clarification purposes)	6-Experience using Hoasca tea: 9 months (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Fluoxethine	20 mg 1 x daily	3 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever **fainted** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt **excessive drowsiness** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced **mental confusion** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had **convulsions** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your **heart beating very fast** (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt **all of your muscles become rigid** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed **significant motor control changes** during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]

NOTE: If you have anything to add, please use the other side of this form.
[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd1.002017

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DEMEC_____
--Medical-Scientific Department of the UDV

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
This form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
Please note that this is being done in such manner as to preserve your anonymity: hall information herein contained is confidential and the release of any results will not identify the persons filling out the form.
We are grateful for your participation.

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Identification:

1-Administrative Unit: Caiueiro núcleo	2- Sex: Male [x] Fem [ ]
3-Initials: DSS	4- DOB: 07/14/1982
5-Contact telephone number: 08132281175 (optional, for clarification purposes)	6-Experience using Hoasca tea: 8 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. AMITRIPTILINE	15 mg 1 x daily	4 MONTHS
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever **fainted** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt **excessive drowsiness** during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
4. When using the medication(s), have you ever experienced **mental confusion** during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
5. When using the medication(s), have you ever had **convulsions** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your **heart beating very fast** (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
7. When using the medication(s) have you ever felt **all of your muscles become rigid** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed **significant motor control changes** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]

NOTE: If you have anything to add, please use the other side of this form.
[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd

Department Directors and Secretariat
Rua Caiubi 1004, CEP 05010-000 São Paulo-SP Phone/fax 11-3673-8298
e-mail: demec@udv.org.br

Department Directors and Secretariat
Rua Caiubi 1004, CEP 05010-000 São Paulo-SP Phone/fax 11-3673-8298
e-mail: demec@udv.org.br

DEMEC_____
--Medical-Scientific Department of the UDV

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
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Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
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We are grateful for your participation.

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Identification:

1-Administrative Unit: blank--tr	2- Sex: Male [x] Fem [ ]
3-Initials: JPT	4- DOB: 2/21/1969
5-Contact telephone number: 9505 1324 (optional, for clarification purposes)	6-Experience using Hoasca tea: 14 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Efexor XR (venlafaxine)	?? cap mg 2 x daily	1 year
2.	mg x daily	
3.	.... mg ... x daily	

Questions: Note: also use ?????? (fluor/ ????) ?????? ???? ?????
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever **fainted** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt **excessive drowsiness** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced **mental confusion** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had **convulsions** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your **heart beating very fast** (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt **all of your muscles become rigid** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed **significant motor control changes** during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]

NOTE: If you have anything to add, please use the other side of this form.
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Department Directors and Secretariat
Rua Caiubi 1004, CEP 05010-000 São Paulo-SP Phone/fax 11-3673-8298
e-mail: demec@udv.org.br

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e-mail: demec@udv.org.br

DEMEC_____
--Medical-Scientific Department of the UDV

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
This form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
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We are grateful for your participation.

Identification:

1-Administrative Unit: Samauma	2- Sex: Male [x] Fem [ ]
3-Initials: FVL	4- DOB: 04/11/56
5-Contact telephone number: 3106 6357 (optional, for clarification purposes)	6-Experience using Hoasca tea: 17 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Cipramil (cital??????)	20 mg 1 x daily	2 years
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessive drowsiness during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor control changes during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]

NOTE: If you have anything to add, please use the other side of this form.
[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd

Department Directors and Secretariat
Rua Calubi 1004, CEP 05010-000 São Paulo-SP Phone/fax 11-3673-8298
e-mail: demec@udv.org.br

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
this form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
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We are grateful for your participation.

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Identification:

1-Administrative Unit: Samaúma	2- Sex: Male [ ] Fem [x]
3-Initials: DMSB	4- DOB: 1963
5-Contact telephone number: (optional, for clarification purposes)	6-Experience using Hoasca tea: 28 yrs (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Sertraline	50 mg 1 x daily	3 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd 1.002021

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MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
this form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
Please note that this is being done in such manner as to preserve your anonymity: hall information herein contained is confidential and the release of any results will not identify the persons filling out the form.
We are grateful for your participation.

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Identification:

1-Administrative Unit: Cupu????a	2- Sex: Male [ ] Fem [x]
3-Initials: J.P.	4- DOB: 10/16/70
5-Contact telephone number: (optional, for clarification purposes)	6-Experience using Hoasca tea: 10 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Verofina (fluoxethine)	20 mg 1 x daily	2 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [?]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [?]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [?]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd 1.002021

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
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Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
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We are grateful for your participation.

Identification:

1-Administrative Unit: São João Batista	2- Sex: Male [x] Fem [ ]
3-Initials: SLCA	4- DOB: 1944
5-Contact telephone number: 3083-5382 (optional, for clarification purposes)	6-Experience using Hoasca tea: 10 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Fluoxethine	20 mg 1 x daily	8 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [x] No [ ]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd 1.002023

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
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Would therefore request that you provide us the data below, if you use any of the controlled medications on the attached list.
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We are grateful for your participation.

Identification:

1-Administrative Unit: Alto do ??	2- Sex: Male [ ] Fem [x]
3-Initials: PSSA	4- DOB: 1969
5-Contact telephone number: (optional, for clarification purposes)	6-Experience using Hoasca tea: 15 years (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Sertraline	50 mg 1 x daily	2 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" UDVProd 1.002021

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

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We are grateful for your participation.

Identification:

1-Administrative Unit: Rei Inca Núcleo	2- Sex: Male [ ] Fem [x]
3-Initials: CASR	4- DOB: 9-6-1955
5-Contact telephone number: 542-3235 (optional, for clarification purposes)	6-Experience using Hoasca tea: 3 years and 6 months (indicate whether days, months or years)

Medications[1]:

Name of medication	Current dose	How long used: (indicate whether days, months or years)
1. Fluoxethine	20 mg 1 x daily	6 months
2.	mg x daily	
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" See note on reverse side. Rua Caiubi 1004, Perdizes 05010-000 São Paulo SP, UDVProd 1.002024

MEDICAL-SCIENTIFIC DEPARTMENT OF THE UDV
MENTAL HEALTH COMMISSION
CONTROLLED MEDICATION USE NOTIFICATION FORM

Dear member:
this form was prepared due to the requirement that the Medical-Scientific Department of the UDV know the use profiles of certain controlled medications by Center members, because these substances may interact with Hoasca tea.
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We are grateful for your participation.

Identification:

1-Administrative Unit: Rei Inca	2- Sex: Male [x] Fem [ ]
3-Initials: SSA	4- DOB: 10-16-1956
5-Contact telephone number: 311-9039 (optional, for clarification purposes)	6-Experience using Hoasca tea: 5 years (indicate whether days, months or years)

Medications[1]:

Name-of medication	Current dose	How long used: (indicate whether days, months or years)
1. Lex?????	50 mg 2 x daily	2 years
2. Aropax (=Paroxethine)	20 mg 1 x daily	2 years
3.	.... mg ... x daily	

Questions:
Please answer the questions below, and consider you experiences with Hoasca tea after using the medications you identified above

1. Do you use these medications by medical prescription (and monitoring)?	Yes [x] No [ ]
2. When using the medication(s), have you ever fainted during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
3. When using the medication(s), have you ever felt excessively drowsy during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
4. When using the medication(s), have you ever experienced mental confusion during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
5. When using the medication(s), have you ever had convulsions during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
6. When using the medication(s), have you ever noticed your heart beating very fast (as you were resting) during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
7. When using the medication(s) have you ever felt all of your muscles become rigid during or within 24 hours after a Hoasca tea session?	Yes [ ] No [x]
8. When using the medication(s), have you ever noticed significant motor	Yes [ ] No

control changes during or within 24 hours after a Hoasca tea session?	[x]

NOTE: If you have anything to add, please use the other side of this form.

[1]This form only need be completed for the medications listed on the table "List of Reportable Controlled Medications" See note on reverse side. UDVProd 1.002026

[Plaintiffs' Exh. 5B]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV-00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE,
UNIAO DO VEGETAL, ET AL., PLAINTIFFS

vs.

JOHN ASHCROFT, ET AL., DEFENDANTS

Volume II

TELEPHONIC CONFERENCE CALL DEPOSITION OF GLACUS DE SOUZA BRITO

* * * * *

[120]

The deposition of GLACUS DE SOUZA BRITO was convened on Wednesday, September 26, 2001, commencing at 11:00 a.m. EST, with the court reporter appearing at the offices of the U.S. Department of Justice, 901 E Street, N.W. Washington, D.C., before Karen K. Brynteson, Registered Merit Reporter and Notary Public.

* * * * *

[223]

loss.

A. Yes, these were found.

Q. Now, were these results published anywhere?

A. They are included in Grob's study.

Q. In his published article?

A. There is also a report at the University of Sao Paolo which undertook the research.

Q. I'm sorry, is there a publication, in addition to Dr. Grob's publication?

A. There was a publication undertaken by the Psychiatry Department, and he was responsible for base line psychiatric evaluation. And those results are cited in Grob's work.

Q. Okay. Would you agree that the 1993 study was an effort to collect a basic body of data and was not an attempt to relate this data to either possible detrimental effects or therapeutic effects? Would you agree with that statement?

A. What we can say about that 1993 study was that in 15 long-term tea drinkers, no decisive detrimental effects were found. There is no way to [224] extrapolate from these finding any conclusions that would be valid or applied to the entire population. For one thing, there were not even any women participating in the study.

Q. You said it showed that 15 people did not suffer detrimental effects, but isn't it true that you don't know yet whether the heart problems are something that could be considered a detrimental effect.

A. Yes, yeah, the changes, the cardiac changes, as I said before, are the sort of changes that one does find in a normal population. And other ones, other heart problems that were identified, those are known to be endemic to that particular population.

Q. But if it is true—

A. So no conclusions can really be drawn one way or the other until a larger study, such as the one we are trying to—what this is is this is largely anecdotal findings, as you would say in America.

Q. If hoasca were found to be causing or [225] contributing to branch blocks in the heart, would you consider that a detrimental effect?

A. Yes. It is based on a random, a larger study with a larger population chosen at random and with due controls to account for those kind of variations.

Q. So basically you can't from this study decide whether anything good is happening or whether anything bad is happening as a result of hoasca; is that what you are saying?

A. All I can really conclude from that is that among these 15 people, the one that turned up these cardiovascular changes did not reveal any other symptoms, any clinical symptoms, nor did they have any kind of mental problems.

Q. Okay. I just want to go back to my original question and ask you if the hoasca were causing branch blocks in the hearts of people who take it, would you consider that to be a detrimental effect?

MS. HOLLANDER: I am going to object that that has been asked and answered.

* * * * *

[Plaintiffs' Exh. 11]

DECLARATION OF CHARLES S. GROB, M.D.

1. My name is Charles Stephen Grob. I make this declaration on behalf of the Centro Espirita Beneficente Uniao do Vegetal ("UDV"). I have been asked by the UDV to give opinions on the matters set forth in the following paragraphs. The opinions set forth in this declaration are my own, and any facts set forth in this declaration are within my personal knowledge and each such fact is true and correct.

2. I have a Bachelors of Science Degree from Columbia University and a Medical Degree from the State University of New York in Brooklyn. I am currently Professor of Psychiatry at the UCLA School of Medicine and Director of the Division of Child and Adolescent Psychiatry at Harbor-UCLA Medical Center. My qualifications and experience are set forth in detail in my curriculum vitae, attached as Exhibit 1.

3. In 1993, I was the principal investigator of an international, multi-disciplinary research project on hoasca (the Portuguese transliteration of "ayahuasca") within the Uniao do Vegetal (UDV), a Brazilian syncretic church. In Brazil, use of hoasca within the context of religious practice has been permitted by law since 1987. As a result of our data collection during June and July, 1993, in Manaus, Brazil, our collaborative group has published six papers in the medical-scientific literature detailing our findings.

4. In addition to my research on hoasca, I have also conducted FDA-approved Phase I research examining the effects of synthetic phenethylamine 3,4-methylenedioxymethamphetamine (MDMA) on volunteer human subjects with previous experience with the drug.

5. Besides my work with hoasca and MDMA, I have also published in the peer reviewed literature other articles on related topics, ranging from the history of psychiatric research with hallucinogens to cross-cultural perspectives on adolescent drug use and abuse. Currently, I am involved with research investigations on the safety and efficacy of a selective serotonin re-uptake inhibitor medication on in the treatment of major depression in children and adolescents and the long-term neuropsychiatric effects of methamphetamine on children exposed to the drug while in utero.

6. The effects of hoasca, which the members of the UDV take within the context of their religious structure, lasts for approximately four hours. For the first thirty minutes, individuals who have taken hoasca as part of a UDV ceremony sit quietly in chairs, without any interaction with their neighbors, listening to a recitation of the fundamental tenets of the religion. Between thirty minutes to one hour from ingestion of the hoasca tea, the beginning of the altered state of consciousness is encountered, marked initially by the perception, with eyes closed, of patterns of light and color. As the session progresses, individuals report the occurrence of well formed images within the context of thematic visions, often with particular relevance to the mythology of the UDV.

During this time, individuals who take hoasca at UDV ceremonial sessions are almost always oriented and aware of their surroundings. They are able to speak coherently and listen attentively to what others are saying. In fact, during much of the customary UDV religious meeting, mestres speak to the congregation about their religion's mythology and address relevant moral issues. Except for the newest participants, all members report excellent awareness and recall of the content of the mestre's talk. The effects begin to wane at about the three hour point; and, after four hours, when the sessions are ritually closed, participants have returned to their normal state of consciousness.

7. Ingestion of hoasca causes a range of subjective effects and psychological changes. The acute psychological changes induced by hoasca include: (1) alterations in thinking, including short-term changes in concentration, attention, memory and judgment; (2) altered time sense, including subjective sensations of timelessness, or the experience of time either accelerating or decelerating; (3) fear of loss of control, caused by internal resistance to the experience, and which may cause an amplification of underlying anxiety; if there is positive cultural conditioning and understanding of the experience, mystical and positive transcendent states may ensue; (4) changes in emotional experience, which can range from states of despair to states of ecstasy; (5) changes in body image, often associated with dissolution of boundaries between self and others and states of depersonalization and derealization where the usual sense

of one's own reality is temporarily lost or changed; such experiences may be regarded as strange and frightening, or as mystical, oceanic states of cosmic unity, particularly when sustained within he context of a belief system conditioned for spiritual emergent encounters; (6) perceptual alterations, including increased visual imagery, hyperacuteness of perception and overt hallucinations; the content of these perceptual alterations is influenced by cultural expectations, group influences and individual wish-fufillment fantasies; (7) changes in the meaning or significance of their experiences, ideas or perceptions may be encountered during the altered state of consciousness; an experience of great insight or profound sense of meaning may occur, with significance ranging from genuine wisdom to self-imposed delusion; (8) sense of the ineffable; because of the uniqueness of the subjective experience associated with these states and their divergence from ordinary states of consciousness, individuals often have great difficulty communicating the essence of their experience to those who have never had such an encounter; (9) feelings of rejuvenation; many individuals emerging from a profoundly altered state of consciousness report a new sense of hope, rejuvenation and rebirth; such transformed states may be short-term or may lead to sustained positive adjustments in mood and outlook; (10) hyper- suggestibility; while in the throes of altered state experience, individuals experience an enhanced susceptibility to accept or respond uncritically to specific statements; nonspecific cues, reflecting cultural belief systems or group expectations, may similarly assume directives of weighty importance.

The role of session facilitator, or in the case of the UDV, the mestre, is one of great vested responsibility, as individual participants are highly susceptible to verbal and nonverbal input directed to them. The content and outcome of such altered states experiences are often directly attributable to the integrity and skill of the leader.

8. As is the case with all hallucinogens, the hoasca experience is profoundly affected by the extrapharmacological factors of set and setting. Intention, preparation, and structure of the session are all integral to the content and outcome of any encounter with hallucinogens, a clear distinction from all other psychotropic drugs. It was the consistent observation by members of our research team that the UDV had constructed a ceremonial structure for their ritual use of hoasca that optimized safety and minimized the likelihood of adverse consequences. All potential new participants were carefully screened to exclude anyone with underlying medical or psychiatric vulnerabilities, taking prescription medications that might adversely interact with the hoasca or with inappropriate motives for taking part in the UDV religious ceremony. During actual sessions, new participants in particular are watched carefully for signs of difficulty by presiding mestres, who intervene if necessary to assist individuals encountering problems. In the days and weeks after participation in a UDV ceremony, appropriate follow-up for assessment and support are conducted when indicated. As a result, the record of the UDV for ensuring safety and well-being of participants has been very impressive.

9. Physiologically, hoasca appears to be well tolerated in healthy individuals. Effects on cardiovascular function appear to be modest. The one area where pronounced short-term effects are encountered is the reaction of the gastrointestinal system. Hoasca often induces a significant degree of nausea and acute gastrointestinal distress. It is not uncommon for participants during a UDV ceremony to get up from their seats and walk to the restrooms, where they vomit and/or have diarrhea. Generally, individuals vomit only once during a session, and thereafter they report having no further gastrointestinal distress. Given the degree of nausea and vomiting that commonly is encountered following ingestion of hoasca, however, as well as our culturally conditioned aversions to those experiences, it is likely that the gastrointestinal component of the experience functions as a protective factor against the possibility that hoasca could be consumed in a maladaptive abuse context.

10. One area of potential physiological risk is adverse drug interactions. Along with one of my colleagues from the hoasca research project, J.C. Callaway, a biochemist from the University of Kuopio in Finland, I have written (Journal of Psychoactive Drugs 30:367-369,1999) of possibly dangerous interactions between drugs of the selective serotonin reuptake inhibitor (SSRI) class of antidepressants and hoasca. Because of hoasca's monoamine oxidase inhibiting (MAOI) effect, in vulnerable individuals the excess neurotransmitter serotonin made available would not be metabolized sufficiently, thus inducing a condition called a

serotonin syndrome, that is caused by excess serotonin and which manifests in elevated temperature, tremor and confusion. Although its association with hoasca is uncommon and its expression relatively mild compared to seretonin syndromes reported by interactions of pharmaceutical medications, it is nonetheless a serious concern that calls for preventive measures. Following discussions of our concerns with physicians of the UDV, all prospective participants in ceremonial hoasca sessions have been carefully interviewed to rule out the presence of ancillary medication that might induce adverse interactions with hoasea. In this and other matters, it has been my consistent observation that the leadership of the UDV has responded with very high degrees of responsibility to ensure optimal safety for all who take part in the religious activities of their religion.

11. Hoasca, when used within the context of the UDV, consists of two plants, *Banisteriopsis caapi* and *Psychotria viridis*. The active alkaloids are believed to be the harmala alkaloids (harmine, harmaline and tetrahydroharmine) of the Banisteriopsis and dimethyltryptamine (DMT) from the *Psychotria*. When taken alone through oral ingestion, the *Psychotria* has no effect. However, when prepared with the *Banisteriopisis*, a profound altered state of consciousness is induced. Apparently, the monoamine oxidase inhibiting action of the harmala alkaloids prevents inactivation of the DMT in the gut by monoamine oxidase enzymes, and allows for absorption and central nervous system activation. This represents a very complex series of plant psychopharmacological reactions.

12. The utilization of hoasca within the ceremonial context of the UDV significantly minimizes the degree of risk incurred by participants. For members of the UDV, hoasca is <u>never</u> consumed outside of the religious structure. Furthermore, a principal tenet of the UDV is that no non-medicinal drug should ever be consumed, in any circumstances. This proscription against non-medicinal drugs, includes not only illicit substances such as heroin, cocaine, amphetamine and marijuana, but also alcohol and tobacco. Consequently, the health of UDV members is benefitted by their abstention from taking such drugs as well as the minimization of risk of adverse drug interactions when ritually consuming hoasca. Also, the careful monitoring of all participants during UDV sessions by mestres ensures prompt intervention if psychological or physiological difficulties are encountered, particularly by those less experienced with the process.

13. Neither I nor my professional colleagues who helped conduct our investigation of the effects of hoasca were able to identify any signs of addiction to the hoasea tea. We observed no evidence of tolerance or withdrawal phenomena encountered by members of the UDV. During times between UDV sessions, participants demonstrated no signs of drug-seeking behavior. In fact, their high level of functioning when compared to the general populace was clearly evident.

14. The experience of orally ingested DMT, in the form of hoasca, is profoundly different from that of injected or inhaled DMT. Whereas the orally ingested hoasca induces a relatively mild to moderate altered state of consciousness, injected or

smoked DMT precipitates a highly intense hallucinogenic experience with an extremely rapid onset (on the order of several seconds from administration) and relatively short duration (approximately ten minutes). Strassman and colleagues at the University of New Mexico School of Medicine have described (Archives of General Psychiatry 51:98-108, 1994)) how, immediately following injected or inhaled administration, DMT induces an overwhelming "rush," which leads to a transient dissociated state where euphoria alternates or coexists with anxiety. In the clinical laboratory setting, with eyes closed, subjects I reported seeing rapidly moving, brightly colored visual displays of images. Thematic visions, however, as commonly described by individuals drinking hoasca within the context of the UDV, do not occur with inhaled or injected DMT. Furthermore, risks of acute adverse reaction are considerably higher for individuals who smoke or inject DMT as opposed to those who drink the prepared hoasca drink. Some individuals who smoke DMT, particularly those with underlying psychiatric vulnerabilities, report prolonged dissociative states, which can catalyze latent anxiety disorders to manifest for prolonged periods of time. The likelihood of such pathologies occurring following oral ingestion of hoasca is, in comparison, extremely low. Smoked and injected DMT appear to present greater risk of physiological reactions than orally consumed hoasca. Whereas hoasca has only mild cardiovascular effects, smoked and injected DMT can induce significant elevations of blood pressure and increased heart rate, which, for individuals with underlying cardiovascular vulner-

ability, may be injurious. Finally, the protective nature of hoasca utilization within the context of the UDV religious structure does not occur with individuals informally smoking or injecting DMT.

15. The Hoasca Project, conducted in 1993, was an international, multi-disciplinary research study, with collaborators from the United States, Europe and Brazil, investigating the range of psychological, physiological and pharmacological effects of hoasca on individuals taking the substance within the context of the UDV. Fifteen subjects were recruited, from the second oldest UDV *nucleo* (religious center) in Brazil, *Nucleo Caupari*, in Manaus, the capital city of the state of Amazonas. These fifteen subjects were randomly selected from a larger group of sixty volunteers, all of whom had consumed hoasca within the context of the UDV for at least the ten previous years. To limit variables, all of the subjects in this pilot investigation were men. Control subjects were matched along all demographic parameters, with they exception that they did not belong to the UDV and had never consumed hoasca. The findings of our preliminary scientific and medical research on the effects of hoasea are detailed in a series of articles published in the scientific literature (Psychopharmacology 116:385-387, 1994; Journal of Nervous and Mental Disease 184:86-94, 1996; Journal of Analytical Toxicology 20:492-497, 1996; Journal of Psychoactive Drugs 30:367-369, 1998); Journal of Ethnopharmacology 65:243-256, 1999).

16. A variety of parameters were utilized to assess past and current levels of psychological function. Both hoasca-experienced subjects and normal con-

trols were administered structured psychiatric diagnostic interviews (Composite International Diagnostic Interview [CID]), life story interviews, personality testing (Tridimensional Personality Questionnaire [TPQ]), and neuropsychological evaluation (WHO-UCLA Auditory Verbal Learning Test). Hoasca-experienced subjects were asked to fill out an additional questionnaire (Hallucinogen Rating Scale [HRS]) following a hoasca session. Each of the hoasca subjects was also interviewed in accordance with a semistructured format designed to ascertain his life story. In addition to this psychiatric investigation, a research methodology designed to evaluate serotonin biochemistry, through the examination of platelet serotonin receptor activity in both experimental and control subjects, was pursued. Additional biological investigations included tryptamine and harmala pharmacokinetics and acute physiological and neuroendocrine effects of hoasca in long-term users.

17. Pertinent results included the identification, by diagnostic and life-story interviews, of appreciable past psychiatric and substance-abuse histories in the subjects before their entry into the UDV, including 73% with a history of significant alcohol use, 33% with alcohol binging associated with violent behavior, 27% with stimulant abuse, and 53% with tobacco dependence. For all of these subjects, however, past psychopathology had resolved following initiation and regular attendance at UDV ceremonies. Personality testing identified significant differences between the hoasca-using and nonusing groups. These included measures of

novelty seeking, with UDV members being more reflective, rigid, loyal, stoic, slow-tempered, frugal, orderly and persistent, and also scoring higher on measures of social desirability and emotional maturity than controls. Hoasca-using subjects were also distinguished from controls in the harmavoidance domain as being more confident, relaxed, optimistic, carefree, uninhibited, out-going and energetic. Overall, the hoasca-using group scored higher on traits of hyperthymia, cheerfulness, stubborness and overconfidence than their nonusing counterparts. Baseline neuropsychological testing also revealed differences between the two groups, with the long-term ayahuasca users demonstrating significantly higher scores on measures of concentration and short-term memory. The final psychological instrument, employed on hoasca subjects only, was the Hallucinogen Rating Scale, designed to correlate the intensity and phenomenology of the subjective state with known measures of intravenous dimethyltryptamine (as per Strassman et al. 1994). In this study of hoasca, scores in the relatively mild 0.1 to 0.2 mg/kg range of intravenous DMT were recorded.

18. Life-story interviews were employed to gather additional personal histories of UDV subjects before hoasca initiation, the nature of their first hoasca experience, and an account of how their lives had changed following entry into the UDV. For most of the interview sample, their lives before entry into the UDV were described as impulsive, disrespectful, angry, aggressive, oppositional, rebellious, irresponsible, alienated and unsuccessful. Many of them had had profound initial

encounters with hoasca. A common theme for their visionary experience was the perception of being on a self-destructive path that would ultimately lead to an ignominious end unless they radically reformed their personal conduct and orientation.

19. All of the long-term hoasca-using subjects reported during the life-story interviews that they had undergone a personal transformation following entry into the UDV and regular participation in ritual hoasca use. In addition to entirely discontinuing cigarette, alcohol and recreational drug use, they reported a radical restructuring of their personal conduct and value systems. One subject described how: "I used to not care about anybody, but now I know about responsibility. Every day I work on being a good father, a good husband, a good friend, a good worker. I try to do what I can to help others . . . I have learned to be calmer, more self confident, more accepting of others . . . I have gone through a transformation." Subjects emphasized the importance of "practicing good deeds," watching one's words, and having respect for nature. Subjects also reported sustained improvement in memory and concentration, persistent positive mood states, fulfillment in day-to-day interactions, and a sense of purpose, meaning and coherence to their lives.

20. All of the subjects interviewed unequivocally attributed the positive changes in their lives to their experiences within the UDV and their participation in the ritual ingestion of hoasca. They described hoasca as a catalyst for their moral and psychological evolution. They also insisted,

though, that it was not necessarily the hoasca alone that was responsible, but rather partaking of the hoasca within the ritual context of the UDV ceremonial structure. Without the structure of the UDV, these subjects asserted, hoasca experiences may be unpredictable and lead to an inflated sense of self. Within the "house of the UDV," however, the hoasca-induced state is controlled and directed "down the path of simplicity and humility."

21. During our research, each of the fifteen UDV subjects participated in one hoasca session, presided over by a designated mestre. Every twenty minutes for four hours, measurements were recorded of oral temperature, pupil diameter, respiratory rate, heart rate and blood pressure. An intravenous catheter was placed in each of the subject volunteers, from which blood samples were taken at baseline and every twenty minutes for four hours, and then twice more at three hour intervals and one final draw at the twenty-four hour point. Results included very mild sustained elevations of temperature and respiratory rate. Mild pupil enlargement was also recorded. Heart rate and blood pressure measurements were observed to undergo an initial mild elevation, which was followed by a gradual return to baseline. Plasma assays included pharmacokinetics of dimethyltryptamine and the three harmala alkaloids—harmine, harmaline and tetrahydroharmine. Subsequent assays of plasma samples also included serial measures of three neuroendocrine hormones—cortisol, prolactin and growth hormone. All measures of neuroendocrine response showed robust responses,

indicating intact serotonergic neurotransmitter function, over basal levels for each volunteer, followed by gradual return to baseline over the next several hours. All subjects tolerated the session well; and, except for the accustomed nausea and vomiting experienced by several, no distress was reported by any of the subjects. An additional neurochemical study conducted at baseline on both UDV subjects and non-ayahuasca-using controls consisted of assays of platelet serotonin receptor density. The very intriguing and unique finding of serotonin upregulation and increased receptor density may be an underlying mechanism or reflection of hoasca's putative antidepressant properties. In our opinion, serotonergic upregulation and increased receptor density would infer greater responsivity to available serotonin, leading to more efficient serotonin function. With many other serotonin active drugs (including antidepressants) given daily, downregulation occurs, which may imply less efficient serotonergic neural transmission.

22. Leaders and members of the UDV have welcomed outside, objective scientists and physicians interested in investigating the UDV's psychoactive ritual sacrament. They were confident that our results would corroborate their subjective experience that their collective use of hoasca had significantly enhanced their physical, psychological and spiritual health.

I declare under penalty of perjury under the laws of the United Sates that the foregoing is true and correct and that this Declaration was executed this 30th day of March, 2000 at Irvine, California.

/s/ CHARLES S. GROB, M.D.
CHARLES S. GROB, M.D.

In order not to burden the record, plaintiffs have removed the Curriculum Vitae identified as Exhibit 1 to this declaration. Plaintiffs have provided a copy of the exhibit to opposing counsel and will provide a copy to the Court, if requested.

[Plaintiffs' Exh. 12]

SECOND DECLARATION OF CHARLES S. GROB, M.D.

1. My name is Charles S. Grob, M.D. I have provided information regarding professional identification in my previous declaration. I have been asked to respond on this occasion to the declaration of Dr. Sander G. Genser, dated January 24, 2001, which is attached as Ex. D to the Government's Opposition.

2. Dr. Genser states that "there is a dearth of reliable medical or scientific literature addressing the effects of ayahuasca." This is correct, up to a point. It is true that the phenomenon of ayahuasca has only recently been "discovered" by medical science, yet interest in developing research investigations with state of the art methodologies is increasing. From our own collaborative study, conducted in the field in the Brazilian Amazon city of Manaus in 1993, we have, to date, published eight articles in the medical and scientific literature and three book chapters. Currently, we are finalizing research protocols for several new investigations which our medical collaborators in Brazil will implement. Furthermore, other investigators from the United States, Europe and Israel have now begun to initiate research studies which will further broaden our understanding of the effects of ayahuasca.

3. The syncretic church whose members we studied, the Uniao do Vegetal, has established a proactive record of facilitating scientific investigations into the effects of ayahuasca. A special Medical Studies Section within the Uniao do Vegetal has systematically been collecting detailed information on the health of their members. Individuals requesting to participate in UDV sessions and possibly join the church are carefully

screened for medical or psychiatric problems. Scrupulous attention is given to screening for medications which may be contraindicated. To date, the Uniao do Vegetal has demonstrated a remarkable record in monitoring and maintaining high health standards among those who participate in their religious ceremonies. The UDV has also sponsored three international scientific and medical conferences in Brazil examining ayahuasca. Given the importance of their religion and ceremonial sacrament in the lives of their members, the UDV is strongly committed to expanding the knowledge and understanding of ayahuasca.

4. Given that our study was the first investigation utilizing modern research technologies, it was by necessity a preliminary study. Dr. Genser is correct when he asserts that we have acknowledged in our publications that our study design possessed inherent "limitations." Indeed, it is entirely appropriate when publishing reports in the scientific literature, particularly in new and relatively unexplored areas, to qualify enthusiasm and express caution when discussing the implications of exciting new research findings. Nevertheless, our investigation did identify that in a group of randomly collected male subjects who had consumed ayahuasca for many years, entirely within the context of a very tightly organized syncretic church, there had been no injurious effects caused by their use of ayahuasca. On the contrary, our research team was consistently impressed with the very high functional status of the ayahuasca subjects. Since many of these men upon whom we had conducted rigorous assessments had, prior to their entry into the ayahuasca church, many years previously harbored serious psychopathology and

behavioral dysfunction, we were even more struck by the overall salutary changes they had experienced.

5. I was a co-author of the original article in the medical literature describing the potential for adverse reactions between ayahuasca and serotonin reuptake inhibitors. Since my colleague, Dr. J.C. Callaway, and I alerted the leadership of the UDV that we suspected that individuals taking SSRIs were running the risk of experiencing a potentially dangerous serotonin syndrome, they have gone to great efforts to insure that no one in the church would be exposed to this interaction. Subsequently, the UDV, a church with an approximate membership of over 8,000 in Brazil, who participate at least twice monthly in religious ceremonies employing ayahuasca as a psychoactive sacrament, has reported no episodes of serotonin syndromes caused by this mechanism. Therefore, in the course of one year, a safe context has been provided for UDV members who drink their sacramental tea approximately 200,000 times. This should demonstrate that it is possible to effectively protect people who take ayahausca from potentially dangerous SSRI interactions.

6. The plant hallucinogen ayahuasca is known to have reversible monoamine oxidase inhibition. Dr. Genser, in his declaration, discusses at length the dangers of interactions between SSRIs and irreversible pharmaceutical MAOIs (e.g. phenelzine). But since ayahuasca's MAOI action is reversible, these descriptions are of only marginal relevance. Furthermore, the serious interactions induced by tryamine containing foods (e.g., aged cheeses, avocados) and irreversible MAOIs are of far less significance with ayahuasca. In the UDV in Brazil, participants in ayahuasca ceremonies have not found it necessary to impose any die-

tary restrictions. Given the extent to which ayahuasca is used throughout Brazil, the lack of reports of adverse events caused by ayahuasca and food interations is reassuring. Another protective feature of ayahuasca is that its effects are relatively brief, usually in the range of 4 - 6 hours. In comparison, pharmaceutical irreversible MAOIs are usually given at least twice daily, with stable blood levels sustained for prolonged periods of time. I agree entirely with Dr. Genser's statement that "the greater the degree and persistence of MAO inhibition for an individual, the more vulnerable that individual would be to more severe reactions to contraindicated medications and foods." Unlike pharmaceutical MAOIs, however, the MAOI effect in ayahuasca is relatively mild, with comparatively lesser degrees of risk for dangerous interactions. Even in the case of serotonin syndrome we reported in our article on ayahuasca-SSRI interactions, as well as others I've heard of since, the duration of the event was relatively brief when compared to more severe cases of serotonin syndrome caused by combinations of SSRIs and pharmaceutical irreversible MAOIs.

7. In his discussion of the risks of exogenous DMT (dimethyltryptamine) to individuals with pre-existing psychiatric disorders, Dr. Genser raises the important question of risk. The route of administration, however, is an important variable which also merits attention. In that context, it is necessary to clarify that the Strassman et al. study referred to by Dr. Genser is actually an investigation of the effects of intravenous DMT in volunteer research subjects. By contrast, ayahuasca is a decoction ingested orally with a relatively gradual onset of action. Subjective effects of ayahuasca do not peak until the 1 –1 ½ hour point, with progressive

lessening of effect and return to normal consciousness after 3 - 4 hours. The onset of intravenous DMT, however, begins within seconds of injection, rapidly peaks and returns to baseline in 5 - 10 minutes. The qualitative experience of the intravenous DMT experience, compared to oral ayahausca, is of a far greater magnitude of intensity.

8. Dr. Genser, in his declaration, raises the sensible issue of driving under the influence of ayahuasca. What should be emphasized in this context, however, is that the UDV maintains strict oversight of their religious ceremonies where ayahuasca is taken as a sacrament. Religious maestres carefully monitor all sessions, providing particular attention to those with less experience and to anyone appearing to be in distress. Leaving the ceremonial setting before the end of the religious service is not permitted, and I have never heard of an incident in Brazil of anyone prematurely departing from a UDV ayahuasca meeting and driving a car. Such behavior is easily controlled by the strict structure and consistent setting employed by the UDV.

9. My medical colleagues in the UDV inform me that they have never received a report of persisting perceptual disorder ("flashbacks") induced by ayahuasca. I have also heard of no such report from any other source.

10. Dr. Genser understandably provides a description of the range of adverse effects of the general class of hallucinogens. It should be kept in mind, however, that ayahuasca has many unique attributes when compared to other hallucinogenic drugs. Overall, ayahuasca is of significantly shorter duration and a milder experience than many of the classic hallucinogens, including LSD and mescaline. It should also be emphasized that

with ayahuasca, as with all hallucinogens, the outcome is determined by the critical variables of set and setting. In the UDV, a strict mental and physical assessment is conducted, in order to screen out individuals with pre-existing vulnerabilities (e.g., serious psychiatric illness) who might be at greater risk for experiencing adverse reactions.

11. An issue of highest priority for the UDV in Brazil is the health and well-being of their children. During pregnancy, women in the UDV regularly participate in religious ceremonies where ayahuasca is ingested. They also take ayahuasca during labor and delivery. The UDV has existed for forty years. If ayahuasca was a teratotoxin, I suspect evidence would have come to light by now. The members of the UDV with whom I have had considerable discussion, are firmly convinced that the participation of pregnant woman in religious ayahuasca ceremonies is salutary for both mother and child alike. Currently, I am collaborating with Brazilian and American colleagues on developing and implementing research protocols designed to assess developmental and neuropsychological health in children and adolescents whose mothers consumed ayahuasca while pregnant. My preliminary observations, from having spent considerable time conducting field work on our previous studies in Brazil, and attending subsequent scientific meetings there, are that the children and adolescents of UDV families often appear to be in excellent psychological and physical health.

12. In conclusion, while it is critical to raise questions addressing health effects of ayahuasca, I have concluded after extensive study of the field that the use of ayahuasca by the UDV in Brazil has been conducted

in an optimally safe and responsible manner. While it is true that the study of ayahuasca is of relative recent origin, its safe and salutary incorporation within this particular religious organization should allow for a more favorable analysis of relative risk verus potential benefit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed this 8th day of February, 2001, at Cazadero, CA.

/s/ CHARLES S. GROB, M.D.
CHARLES S. GROB, M.D.

[Plaintiffs' Exh. 16]

DECLARATION OF MARK ALBERT ROBERT KLEIMAN, Ph.D.

1. My name is Mark Albert Robert Kleiman. I make this declaration on behalf of the Centro Espirita Beneficiante Unaio do Vegetal (UDV). I have been asked by the UDV to give opinions on the matters set forth in the following paragraphs. The opinions set forth in this declaration are my own, and any facts set forth in this declaration are within my personal knowledge and each such fact is true and correct. This declaration sets forth my knowledge of the meaning of the schedules created by the Controlled Substances Act (CSA) and of the potential contribution is to the substance abuse problem, and especially the problem of the abuse of orally active preparations of dimethyltriptamine (DMT), should permission be granted for the UDV to import limited quantities of sacramental hoasca.

2. I received my Bachelor of Arts degree (magna cum laude) from Haverford College, with majors in political science, philosophy, and economics in 1972, my Master of Public Policy degree from Harvard University in 1977, and my Ph.D. degree in Public Policy, also from Harvard University, in 1985. Since 1979, my work has focused on substance abuse control policy. From 1979 through 1982, I was Associate Director for Drug Control Policy of the Office of Policy and Management Analysis in the Criminal Division of the U.S. Department of Justice. In 1982 and 1983, I was Director of that office. From 1983 through 1996, I

was affiliated with Harvard University, as a research fellow first at the Harvard Law School and then at the John F. Kennedy School of Government, and from 1988 through 1996 as Lecturer in, and then Associate Professor of, Public Policy at the Kennedy School. From 1996 to 1998, I was a research fellow of the Division on Addictions at Harvard Medical School. I am also associated with Harvard's university-wide Program on Drugs and Addictions, and remain a Research Fellow in the Program in Criminal Justice Policy and Management of the Kennedy School. Since 1996, I have been Professor of Policy Studies at the University of California, Los Angeles, where I direct the Drug Policy Analysis Program. I am co-chair of the Drug Policy Project of the Federation of American Scientists, and editor of the *Drug Policy Analysis Bulletin*. I have published two books and many articles on drug policy. As an individual and through the BOTEC Analysis Corporation, of which I am chairman, I have consulted on drug policy to a wide variety of public agencies, including the Office of National Drug Control Policy.

3. The CSA establishes five "schedules" of controlled substance, setting out criteria for placement of a substance in each schedule, at 21 U.S.C. § 812. Schedules II-V include drugs having recognized medical use and recognized safety for use under medical supervision. Schedule II includes those drugs with the greatest potential for abuse, while Schedules III-V represent diminishing levels of risk.

4. Schedule I drugs are defined by the statute according to three criteria: high abuse potential, lack

of accepted medical use, and lack of accepted safety for use under supervision.

5. However, if these three criteria were read to require that a substance meet all of them to qualify for Schedule I placement, the CSA would make no provision for the scheduling of a substance with moderate or low abuse potential but no recognized medical use, regardless of its safety for use under supervision. This difficulty has been resolved in practice by placing any substance that appears to have abuse potential and no recognized medical use in Schedule I. If a drug has no accepted medical use, then its safety in such use is a question without practical implication. Whatever its degree of risk, such a drug does not meet the criteria for any of the other schedules, which embrace only medically useful drugs.

6. Thus the placement of a drug in Schedule I does not imply that it has been adjudged to have high abuse potential or that it is unsafe even for supervised use. In particular, the placement of DMT in Schedule I does not reflect any judgment about the degree (as opposed to the existence) of its abuse potential, or about its safety for supervised use. Those judgments would only need to be made were it proposed for rescheduling, which would require evidence of its medical utility.

7. The example of delta-9 tetrahydrocannabinol (delta-9 THC) illustrates this point. Delta-9 THC is recognized as the primary psychoactive agent in cannabis (marijuana). Both research agencies such as the National Institute on Drug Abuse and enforcement agencies such as the Drug Enforcement Administration rate the potency of marijuana

according to its delta-9 THC content: the greater the concentration, the greater the potency and therefore the greater the risk.

8. Marijuana, of whatever potency, was placed in Schedule I at the passage of the CSA, and remains there. Oral administration of cannabis, though relatively rare, is considered riskier in terms of substance abuse than smoking, because the user has less control over dosage and therefore a higher probability of, for example, panic attacks or dysphoria. While smoking carries its own health risks, no one would say that pure oral THC is a less threatening drug than the plant material.

9. Delta-9 THC was originally also placed in Schedule I.

10. A preparation of pure delta-9 THC in sesame oil was approved as a prescription appetite enhancer in 1986, and was consequently rescheduled to Schedule II of the CSA under the generic name dronabinol (trade name Marinol). This rescheduling did not reflect any change in scientific opinion about the abuse liability of THC, but was the consequence of the approval of Marinol for medical use by the Food and Drug Administration.

11. More recently, that same preparation was rescheduled to Schedule III. This rescheduling was based on evidence that Marinol was not, in practice, being diverted from medical to nonmedical uses, not on any new evidence about its abuse potential or safety in supervised use.

12. It is my understanding that from the point of view of the UDV, hoasca is a sacrament, involving parts of two specific plant species, prepared and used

under ritual conditions. To a member of the UDV, a pharmacologically similar, or even identical preparation, involving different plants or made and used outside the church, would not be hoasca.

13. However, from the point of view of substance abuse, hoasca is simply one specific variety of a range of mixtures, referred to generically as ayahuasca or yage, containing DMT and beta-carbolines, including the harmala alkaloids harmine and harmoline. The beta-carbolines enable DMT, which if taken by itself orally would be rendered inactive by the digestive system, to survive in active form until it crosses the blood/brain barrier. Moreover, the harmala alkaloids have their own psychoactivity. This DMT/harmala combination is the defining characteristic of ayahuasca.

14. The extent to which the independent psychoactivity of the harmala alkaloids and other beta-carbolines, as opposed to their effect in making DMT orally active, contributes to the subjective effects of ayahuasca, is an open question. But there is no reason to think that the specific plant origin of the chemicals has any important influence on their hallucinogenic effects.

15. Therefore, to someone merely wishing to experience the mind-altering effects of such preparations, the precise details of origin and preparation are largely irrelevant.

16. For someone merely wishing to abuse DMT orally, any preparation that included DMT and a sufficient quantity of any monoamine oxidase inhibitor would suffice.

17. The harmala alkaloid, and the plants containing them, are not controlled substances.

18. Both DMT and harmala alkaloids occur in many plant species that grow in the United States. Some of these, including DMT-bearing plants such as phalaris grass, are commonly available from nurseries and garden-supply stores.

19. Information about the creation of orally active DMT preparations (under such names as *ayahuasca borealis* or "pharmahuasca") is available from several books and on various websites, as well a being orally disseminated both informally and at conferences and workshops. Some of these accounts involve the use of chemical reagents and apparatus, but others rely on nothing more complicated than a wheatgrass juicer.

20. To my knowledge, there have been no published reports of any criminal prosecutions for the preparation or use of such materials, or for growing the plants in question or selling the plants or their seeds. This may reflect a relatively low incidence of the use of such preparations and/or the low enforcement priority assigned to them. But it also reflects the sheer difficulty of making such cases. While the specific intent to use a substance for its psychoactive effect is not an element of the offense of possession under the CSA, it would be extremely difficult to convict someone for growing, for example, a lawn full of phalaris grass with seed bought from a garden supply store along with some plants of Syrian rue, which contains no controlled substance at all.

21. Many of those preparations lack the nauseant and emetic activity of the typical Brazilian ayahuasca preparations, including the hoasca used by the UDV. While many drug abusers tolerate a variety of inconveniences and discomforts associated with the drugs they take and the ways in which they take them, it is not reported that drug abusers as a class, or users of hallucinogens in particular, enjoy nausea or vomiting. Thus, other things being equal, one would expect those whose interest is in drug abuse to prefer preparations without those side-effects, and such preparations would be expected to have a greater abuse liability than hoasca itself.

22. According to the research literature, hallucinogenic substances, including DMT, score much lower on scales measuring reinforcement, and have much less tendency to create dependency, than opiates, such as heroin. That is, those exposed to hallucinogens once display far less motivation to experience second and subsequent doses than those exposed to opiates, and a far smaller proportion of them develop drug dependency as defined by accepted clinical criteria ("addiction"). This would suggest that a much smaller proportion of hallucinogen users than of opiate users would be so strongly driven to seek out the drug experience as to neglect the presence of side-effects.

23. Any abusable substance approved for licit use, whether for research, medicine, industrial application, or worship, faces some risk of diversion for drug abuse. The extent of that risk depends on the abuse liability of the material itself, the volume

of licit material, the tightness of the controls surrounding it, and the availability of substitutes.

24. Thus in the case of dronabinol, the widespread availability of marijuana greatly reduces the motivation for diversion, and in fact very little such diversion occurs.

25. In the case of hoasca, the widespread availability of pharmacologically equivalent substitutes, some of them with fewer unwanted side-effects and less apparent legal risk, would greatly reduce the motivation to divert the sacramental material for purposes of drug abuse. Similarly, there would be little motivation for those merely interested in abusing DMT to simulate an interest in the UDV as a religion in order to gain access to hoasca.

26. According to the research literature, hoasca is considered a sacrament within the UDV, and its use outside the ceremonial religious context of the church is considered by members of the UDV to be sacreligious and a serious offense under the doctrine of the church. The UDV also imposes strict internal controls over its hoasca to prevent any possibility of diversion. To my knowledge, there are no reports of diversion of hoasca from the UDV to non-religious use.

27. Even if permission to import hoasca is denied, orally active DMT/harmala combinations will remain easily available to those interested in experiencing their psychoactive effects.

28. Consequently, it is my opinion that the supply-side effects on the abuse of DMT resulting from permission for the UDV to import hoasca for ritual use will be zero (within measurement error).

29. It is possible that there will be non-zero effects on the demand side. Interest in ayahuasca analogs has clearly been stimulated by reports about the practices of the UDV and Santo Daime churches. That interest could increase as a result of reports, both by word of mouth and in the mass media, of UDV activity in the United States, though the extent of this effect would be limited by UDV's practice of non-proselytization. It is also possible that members might leave the church but retain an interest in the psychotropic experience provided by hoasca, though such cases have not been documented. As a consequence, permission for the ritual use of hoasca could have indirect, demand-side effects in the direction of increasing the extent of non-religious use of DMT preparations. There is no currently available evidence or analysis to suggest that such effects, were they to occur, would be large.

30. The experience with legal permission for the use of peyote in ceremonies of the Native American Church (NAC) is reassuring on this point. Both peyote and its primary psychoactive agent, mescaline, are abusable substances and are in fact used illicitly. But the extent of that use, as measured by surveys, and its ill consequences, as measured by emergency-department it "mentions," remains very small by comparison with lysergic acid diethylamide (LSD), whose hallucinogenic effects are similar to those of mescaline but which is not permitted for any religious use. Nor have there been any reports of increased illicit use of either peyote or mescaline since the passage in 1994 of the American Indian Religious

Freedom Act Amendments, even in states where such use was illegal before that enactment but legal thereafter.

31. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed this 9th day of February, 2001, at Los Angeles, California.

/s/ MARK ALBERT ROBERT KLEIMAN, PH.D
MARK ALBERT ROBERT KLEIMAN, PH.D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV 00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE
UNIAO DO VEGETAL, ET AL., PLAINTIFFS

v.

JOHN ASHCROFT, ET AL., DEFENDANTS

[Filed: Aug. 30, 2001]

CERTIFICATE OF SERVICE

Counsel for plaintiffs certify that a copy of this certificate and a copy of the following reports:

1. Second Expert Report of Mark Albert Robert Kleiman, Ph.D.

2. Expert Report of David E. Nichols, Ph.D. were served on opposing counsel this 30th of August, 2001 as follows:

by first class mail to:

Phyllis Dow, Esq.
U.S. Attorney's Office
201 Third Street, N.W., #900
Albuquerque, NM 87102

and by Federal Express to:

Elizabeth Goitein, Esq.
United States Dept. of Justice
Civil Division
901 E Street, N.W.,
Room 1032
Washington, D.C. 20004

FREEDMAN BOYD DANIELS
HOLLANDER
GOLDBERG & CLINE P.A.

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[Plaintiffs' Exh. 17]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV 00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE
UNIAO DO VEGETAL, ET AL., PLAINTIFFS

v.

JOHN ASHCROFT, ET AL., DEFENDANTS

SECOND EXPERT REPORT
OF MARK ALBERT ROBERT KLEIMAN, Ph.D

1. My name is Mark Albert Robert Kleiman. I am making this report on behalf of the Centro Espirita Beneficiante Unaio do Vegetal (UDV). I have been asked by the UDV to give opinions on the matters set forth in the following paragraphs. These opinions are supplemental to those set forth in my declaration of February 9th of this year, and I offer them in rebuttal to the expected testimony of Terrance Woodworth. The opinions set forth in this report are my own, and any facts set forth in this report are within my personal knowledge and each such fact is true and correct.

2. I maintain my previously stated opinion that, should the UDV receive permission to import and use hoasca, the probability of any substantial diversion to illicit use would be very low, even in the absence of special controls. The bases of that opinion include: (A) The nausea-inducing properties of the material itself, limiting demand for it outside its ritual context; (B) The

availability of other DMT-bearing materials with comparable psychoactivity, some of them reportedly less nauseous; (C) The availability of other (non-DMT) hallucinogens; (D) The small quantity involved, which would tend to retard the development of an illicit market; (E) The bulkiness of the material, which would greatly complicate the problems faced by traffickers in transporting and storing it and in consummating transactions discreetly and efficiently; (F) The interest of the UDV in tracking down diverted materials, which would increase the risk from any potential trafficker's viewpoint and make, e.g., Internet marketing virtually impossible.

3. The apparent absence of any diversion problem involving peyote harvested and acquired for use in the ritual of Native American Churches also supports the view that the probability of any substantial hoasca diversion would be minimal.

4. Even assuming that there were some substantial probability of diversion, reducing that probability would not require forbidding entirely the importation and distribution of hoasca, thus in effect banning the hoasca, religious practice of the UDV in the United States. Less restrictive alternatives exist, as described below.

5. Any diversion of hoasca to illicit use, were permission to be granted for the UDV to import and distribute hoasca for ritual use, would have to occur at one of the following points in the process. (A) It could be diverted at the point of production by UDV officials in Brazil; (B) It could be stolen in transit in Brazil; (C) It could be stolen in transit between Brazil and the United States; (D) It could be stolen in transit within

the United States; (E) It could be stolen from UDV property; (F) It could be diverted by UDV officials.

6a. Diversion by church officials in Brazil seems quite implausible on its face. Moreover, it is not a risk created by the permission in question. Hoasca production by the UDV is already lawful activity in Brazil, and the contribution of the American church to the total amount of hoasca required is tiny (less than one part in fifty based on a comparison between the UDV membership in Brazil and in the United States).

6b. Theft in transit in Brazil is less implausible (still assuming that the material has sufficient illicit-market value to be worth stealing). But it is not clear why hoasca for export to the United States would be at any greater risk of diversion than hoasca produced for Brazilian use, or why the hypothetical illicit hoasca traffickers would choose to steal sacramental supplies rather than brewing their own from the same two plants used by the church or from pharmacologically equivalent plants. To my knowledge, there have been no reports of non-religious shipments of ayahuasca preparations from Brazil to the United States, or of such preparations being offered for sale on the illicit market.

6c. Theft in international transit presents a risk for anything of value so shipped. The magnitude of that risk: can be reduced in a variety of ways, some of them as simple as heavily insuring each shipment, thus increasing the incentive of the shipping agency to use special care in handling. At greater cost, each shipment can travel with a passenger as checked baggage. The sheer bulk of each dose of hoasca decreases its attractiveness to a potential thief. Again it is far from clear why a hypothetical illicit hoasca trafficker would choose

to steal hoasca from international transit rather than brewing a pharmacologically equivalent ayahuasca preparation in Brazil. Reportedly, the UDV shipped hoasca from Brazil to the United States several times before the seizure that generated the current dispute, and did so without incident.

6d. As for theft in the United States, whether in transit or from church property, the Drug Enforcement Administration has regulations in place concerning the shipment and storage of controlled substances for pharmaceutical, research, and industrial uses. Those regulations prescribe both practices and record-keeping. Many substances covered by those regulations have established illicit markets and far higher ratios of illicit value to bulk than an is the case for hoasca. These regulations could be imposed if there were evidence of a theft problem.

6e. Members of the UDV are expected to participate in its services on a regular basis. Church membership changes ranges very slowly. Thus the amount of hoasca required in the course of any given month by any given UDV congregation is highly predictable. That fact would make any diversion attempt within the church stand out prominently.

7. In theory, another practice tantamount to diversion might emerge, in which fees were charged for participation in individual services, giving the church itself (or rogue officials within it) financial incentives to recruit participants who might have no interest in religious practice as opposed to drug-taking. (This would be the quasi-religious analogue of "script doctoring.") It is my understanding that the practice of the UDV involves no per-service payment. Furthermore, the doctrine of the UDV considers any commercial use

of hoasca to be sac-religious, the church leaders are highly trained and carefully selected, and the UDV imposes severe sanctions for any abuse of church leaders' authority. It is also my understanding that an agreement between the UDV (and other ayahuasca-using religious bodies) and the Brazilian government explicitly forbids any commercial activity. Permission for the UDV to import and distribute hoasca could reasonably be made subject to a restriction that no per-service or per-dose fee or contribution be collected.

8. In addition, the UDV could reasonably be required to notify the government in advance of each shipment of hoasca from Brazil (date and means of shipping, quantity of material, expected date of arrival, person authorized to receive the material from the shipper), and to report promptly any theft in transit or from church property.

9. The combination of those three requirements - non-commercialization, pre-notification of shipments, and reporting of theft—would constitute a minimally intrusive set of controls. The government would be able to check on shipments as they arrived to monitor the total volume of material. A rapid increase in volume might reasonably trigger an inquiry as to its use, as would any evidence of hoasca being offered or consumed on the illicit market.

10. A somewhat more intrusive approach would rely on the predictability of the hoasca requirements associated with UDV practice. That more intrusive approach could either be put in place from the start or held in reserve in the (in my opinion) unlikely eventuality that diversion of hoasca proved to be a problem. It might work as follows:

(A) Each year, the church would be required to calculate the average annual requirement of hoasca on a per-member basis and submit that figure to the Drug Enforcement Administration, modifying it if and as its practices change.

(B) Also each year, the church would be required to submit a statement of the number of its active members, and its estimate of how it expects that figure to change over the coming year. Again, that estimate might have to be revised during the course of the year.

(C) The product of the annual per-member requirement of hoasca and the estimated number of members for any year would be the estimated total hoasca requirement for that year.

(D) Each year, the church would be required to submit a "materials balance" statement showing the amount of hoasca on hand at the beginning of the year, the amount brought in during the course of the year, and the amount on hand at the end of the year, thus allowing a computation of net hoasca consumed that could be compared with the estimate calculated in (C) above, along with an explanation of any variance.

These requirements would be in addition to the requirements of noncommercialization, pre-notification of shipments, and prompt reporting of thefts suggested above.

11. While more intrusive than the minimal control set described in sections 7-9 above, the approach described in section 10 would still allow the government

to assume an almost entirely passive role: receiving reports, checking calculations, and perhaps verifying the quantities of some shipments or monitoring the Internet for reports or offers of diverted hoasca. As long as the quantity imported remained consistent with the quantity legitimately required, and unless there were other evidence that hoasca had leaked into illicit use, nothing more would be required. If there were evidence of diversion or theft, that system might be tightened in various ways. For example, if theft were a problem, the UDV might be required to comply with DEA regulations for storing and shipping controlled substances.

12. In summary, it is my opinion that even in the absence of the controls discussed above, the probability of any substantial diversion of hoasca would be very small, and that a variety of low-intensity controls would be more than adequate to meet any residual risk. It would be reasonable to proceed in phases, starting with the least intrusive controls and tightening if and as necessary.

13. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this report was executed this 21st "day of August, 2001, at Los Angeles, California.

MARK ALBERT ROBERT KLEIMAN, PH.D

[Plaintiffs' Exh. 18]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV 00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE, UNIAO DO VEGETAL, ET AL, PLAINTIFFS
V.

JOHN ASHCROFT, ET AL., DEFENDANTS

DEPOSITION OF MARK ALBERT ROBERT KLEIMAN, Ph.D., taken on behalf of the defendants at 10:11 a.m., Tuesday, August 14, 2001, at 300 North Los Angeles Street, Los Angeles, California, before Jennifer W. Pertusati, CSR.

* * * * *

[53]

Q. I'm only talking about lookir g at it, looking at the substance.

A. Yeah, and not smelling it.

Q. Not smelling it, just looking.

A. I actually don't know. I—I haven't—having not seen it the answer is I don't know.

Q. Going back to the issue of alcohol during Prohibition, apparently the bulk of alcohol during Prohibition wasn't an enormous factor in reducing illegal trafficking; isn't that true?

A. Oh, I must disagree with you.

Q. Okay.

A. Despite very inadequate levels of enforcement, and despite a regime in which the users were completely invulnerable to enforcement because the use of alcohol was never prohibited, alcohol—yes, alcohol Prohibition—you look surprised. Alcohol Prohibition, as it's always called in the debate and the history and as it was [54] referred to at the time, was a regime which we would call decriminalization if applied to any controlled substance today. It was illegal to manufacture or to sell or to transport. It was not illegal to possess or consume.

Q. That's interesting, I didn't know that.

A. In fact, all the way through Prohibition there were private clubs that—or allegedly private clubs that you could join for $5 at the door. They would keep bottles that were allegedly members' private stocks under the bar and they would sell you water and fizzy water and ice and glasses.

So a very inadequate enforcement regime nonetheless was able to more than triple the price of alcohol during Prohibition. Had the material been less bulky, enforcement would have been considerably harder. Reportedly, during—now again, we're off my expertise; I'm not [55] the share of distilled spirits rose because an historian on Prohibition. But reportedly, during Prohibition, the share of beer in total alcohol consumption fell and it was more efficient to distribute the more concentrated form of alcohol.

Q. But there was significant illegal trafficking in alcohol, isn't that right, during Prohibition?

A. There was.

MS. GOITEIN: Off the record.

(Recess)

BY MS. GOITEIN:

Q. Okay, you just told us that there was significant illegal trafficking of alcohol during Prohibition despite its bulk. Why would that not be the case with hoasca? Why is it in the case of hoasca that bulk would be a significant factor, which I assume is what you're saying, in reducing illegal trafficking in hoasca when it didn't seem to have—I mean, obviously it [56] affected, but didn't by any means minimize the trafficking of alcohol?

A. Again, competition from other hallucinogens available in less bulky form would be a significant factor. That is, if this mug is a dose of hoasca and the U on this thing that says Exhibit U was a dose of LSD, I mean, the thickness of this sheet of paper and the area of that U is a dose of LSD, both the trafficker and the consumer are going to find it safer to go with the less bulky form.

Q. So the bulkiness only really matters if there is another substance that can substitute; is that right?

A. No, it matters in any case. The total cost and particularly the enforcement risk of the hypothetical illicit hoasca traffic is much greater than it would otherwise be because it's bulky. Now you said, well, yes, but alcohol was trafficked even though it was bulky, which my answer was, well, the [57] enforcement wasn't very great and there was no substitute; neither of those is the case here.

Again, alcohol was something that people wanted to use outside ceremonial context which were legal. So during Prohibition, for example, I'm not aware of any reports of diversion of communion wine to illicit traffic.

Q. Have you researched that?

A. I haven't, but I mean, I've read—certainly read lots about Prohibition. I know all the—I think, all the prominent ways that people either broke the law or got around it. For example, getting medical prescriptions for alcohol was a very common way to get around Prohibition, and there were also herbal remedies that were made that had 10 percent alcohol in their solution and they were sold. Jamaica ginger extract, right? But stealing communion wine was not an important [58] source of alcohol during Prohibition because it wasn't the most convenient way to get alcohol.

So in order to understand the likely diversion pattern: you have to look at the demand for the substance, the illicit demand—do people what to take this for nonritual purposes? the substitutes—and that's a wide range of possibilities, and the technical difficulty both of acquiring the stuff for diversion, that is figuring out a way to steal it, and then turning around and figuring out a way to sell it.

Q. But if there is—for example, if you say the other two factors, if there is a high demand for a substance, if there are no good substitutes for that substance, the fact that it's bulky is not necessarily going to eliminate illegal trafficking, is it?

A. The fact that it's bulky will not necessarily eliminate illegal trafficking, * * *.

* * * * *

[144]

Q. BY MR. SZUBIN: How are coca leaves—

A. I don't know.

MS. HOLLANDER: Do you agree, Adam, that he is not looking at the Controlled Substances Act?

MR. SZUBIN: I agree he is not looking at the Controlled Substances Act.

Q. Do you know when and how DMT was scheduled?

A. My understanding is that it was grandfathered into the CSA along with everything else that was prohibited at that time when it got on that list. I don't know.

Q. Do you know whether there was any assessment of its abuse at that time?

A. I am not familiar with it. When I read the legislative history of the CSA, there is no reference.

Q. So you don't know if there was any assessment made of its abuse potential?

A. No.

Q. Do you know whether there was any assessment made for its safety of supervised use?

A. No. I do not know. Though, if supervised use includes research use, then it's quite common to use Schedule I drugs in research. They are used all the time, including DMT. So that if inclusion in Schedule I meant it was never ever safe to give anyone this * * *.

* * * * *

[Plaintiffs' Exh. 24]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV 00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE
UNIAO DO VEGETAL, ET AL., PLAINTIFFS

v.

JOHN ASHCROFT, ET AL., DEFENDANTS

EXPERT REPORT OF DAVID E. NICHOLS. Ph.D.

A. Opinions

1. My name is David Earl Nichols. I make this expert report on behalf of the Centro Espirita Beneficente Uniao do Vegetal ("UDV") in rebuttal to the anticipated testimony of Drs. Genser and Jasinski, and Terrance Woodworth, and the materials upon which they relied and considered. I have been asked by the UDV to give opinions on the matters set forth in the following paragraphs. The opinions set forth in this expert report are my own, and any facts set forth in this expert report are within my personal knowledge and each such fact is true and correct. This expert report sets forth the outlines of my knowledge regarding the history, use, psychopharmacology, and toxicity of DMT and ayahuasca (also herein referred to as hoasca), as obtained by my reading of the medical literature, participation in technical reviews, attendance at professional conferences, committee service, discussions with colleagues, and my own research over a period of more than thirty years.

2. I have a Bachelors of Science Degree in Chemistry in 1969 from the University of Cincinnati, and a Ph.D. degree in Medicinal Chemistry in 1973 from the University of Iowa College of Pharmacy in Iowa City, Iowa. I was a Postdoctoral Fellow in Pharmacology at the College of Medicine, University of Iowa, until November 1974. I am presently Professor of Medicinal Chemistry and Molecular Pharmacology in the School of Pharmacy and Pharmacal Sciences at Purdue University, West Lafayette, Indiana. My qualifications and experience are set forth in detail in my curriculum vitae, attached as Exhibit 1.

3. I began my graduate studies in 1969; and in the years since then one of the major foci of my own research has been the structure-activity relationships of hallucinogens, including *N-N dimethyltryptamine* (DMT) and related molecules. As will be seen in Exhibit 1, I have given many presentations, written numerous scientific publications, participated in several symposia, and written several monographs and book chapters concerned specifically with the chemistry and pharmacology of hallucinogens. Although I have published mainly scientific papers dealing with the pharmacology of hallucinogens in animal species, particularly rats, I have read widely on the history and anthropological aspects of hallucinogens as background for my scientific work. My public presentations often contain educational background information on the uses of hallucinogens in other cultures.

4. Hallucinogens are considered by the scientific community to be physiologically safe molecules. That is, these drugs are powerful in producing changes in consciousness, but they do so at doses that are not toxic to mammalian organ systems. There is no evidence

that any of the hallucinogens, including DMT, or even the very powerful semisynthetic hallucinogen LSD causes damage to any human body organ. In 1967 Cohen (1967) stated, "Death directly caused by the toxicity of LSD is unknown." This statement was reiterated in 1985 by Jaffe (1985), "In man, deaths attributable to direct effects of LSD are unknown." This observation still remains true today. Hallucinogens, including DMT, do not cause life-threatening changes in blood pressure, cardiovascular, renal, or hepatic function because they have little or no affinity for the biological receptors and targets that mediate vital vegetative functions. They do not engender drug dependence or addiction (O'Brien 2001) and are not generally considered to be reinforcing substances. For example, in a recent article concerning drugs of abuse that activate brain reward pathways, drugs considered were opiates, nicotine, cannabis, phencyclidine, cocaine, amphetamine, alcohol, benzodiazepines, barbiturates, and even caffeine. There was no mention of hallucinogens such as DMT or related substances (Wise 1998). Whereas Parker (1995) has shown that high doses of LSD can produce conditioned place preference, a measure of reinforcing quality of a drug, there is no similar report for DMT. This finding can probably be explained by the fact that at high doses LSD can interact with dopamine receptors (Watts et al. 1995) whereas DMT has no significant affinity for dopamine receptors. In June 2000, I carried out a computer search of the medical literature in the National Library of Medicine back to 1965 using PubMed, with the topic DMT linked to the following key words: adverse, death, lethal, and fatal and found no reported instance of any overdose death caused by DMT. Strassman (1984) and Halpern and Pope (1999) have published studies on the

adverse reactions or long term sequelae following hallucinogen use based on their analysis of published literature reports. Halpern and Pope reached a conclusion that was similar to Strassman's with regard to repeated use of psychedelic drugs, that the results were controversial, but that if any long term adverse effect did occur it was, "subtle or nonsignificant."

5. Their principal effects are on consciousness. As Jaffe (1985) has stated, "the feature that distinguishes the psychedelic agents from other classes of drugs is their capacity reliably to induce states of altered perception, thought, and feeling that are not experienced otherwise except in dreams or at time of religious exaltation." The nature of the effects is heavily dependent on the expectations of the user and the environment or setting in which the use takes place. Thus, expectations of religious content typically lead to the anticipated outcome, while use in a non-structured or recreational way can have unpredictable psychological consequences. The dangers of psychedelics lie principally, in their psychological effects. Thus, while LSD has not directly caused overdose death, fatal accidents and suicides during LSD intoxication have occurred (Jaffe 1985). Because all of the hallucinogens can cause similar psychological reactions, it is important that they be used only in supervised settings, with experienced supervision. Strassman (1984) and Malpern and Pope (1999) have specifically developed their conclusions of low incidence of adverse reactions based on reviews of supervised clinical use of hallucinogens.

6. *N,N*-Dimethyltryptamine (DMT) is a naturally-occurring hallucinogen that is found distributed throughout the plant kingdom (Schultes 1976). DMT is not active following oral administration in humans. It is

widely believed that it is destroyed after oral ingestion by the first pass through the liver, where monoamine oxidase and aldehyde dehydrogenase metabolically break it down into indole acetic acid, a biologically inactive metabolite. Numerous scientific studies show that the human body actually produces DMT under normal conditions. As one example of these many investigations, Saavedra and Axelrod (1972) demonstrated the formation of *N,N*-dimethyltryptamine by an enzyme in the human brain. Similarly, Christian et al. (1977) conclusively demonstrated the presence of DMT in the rat brain and have proposed that it may have a regulatory function similar to other neurotransmitters. Nevertheless, under normal physiological conditions, endogenous DMT would be quickly degraded by the monoamine oxidase and aldehyde dehydrogenase present in the human body. Thus, under ordinary circumstances DMT produced by the body would never achieve concentrations necessary to provide an hallucinogenic effect. The observation that DMT can be produced within the human body serves to show, however, that DMT is not a substance foreign to mammalian systems, and that various natural enzymes exist to terminate its physiological effects.

7. When isolated and purified, or when obtained by synthesis, DMT has been used as a recreational drug. In those instances where it is used as the pure substance, it is typically smoked as the free base. Pure synthetic DMT has been given to humans in at least five published studies, by Szara (1956), Gillin et al. (1976), Rosenberg et al. (1963), Turner and Merlis (1959), and Strassman and Qualls (1994) and Strassman et al. (1994). In each study except that of Strassman et al. the DMT was administered by intramuscular

injection, and in the study by Strassman et al. it was administered intravenously. Typical of the clinical findings are those of Gillin et al. (1976), who replicated earlier results by observing that the effects of DMT (0.7 mg/kg), given by intramuscular injection, produced evident psychological effects within five minutes of injection, which peaked at about 10-15 minutes, and ended within 45 to 120 minutes. Blood levels of DMT closely paralleled the observed psychological and autonomic changes, reaching peak plasma concentrations of approximately 100 ng/mL about 10-15 minutes after DMT injection.

8. Strassman et al. (1994) and Strassman and Qualls (1994) have described human clinical experiments with intravenously injected DMT fumarate; the injected DMT produced psychopharmacological effects comparable to those from smoked doses. In those experiments, 0.4 mg/kg was sufficient to provoke an intense experience, which began in only a few seconds, and lasted less than 30 minutes. Peak plasma levels of 32 to 204 ng/mL of DMT following intravenous administration of 0.4 mg/kg occurred within 2 minutes after injection and then dropped to baseline levels by 30 minutes.

9. The plant decoction known as hoasca has a long and documented history of use in the Amazon valley of South America as a psychoactive preparation that has served as the focus of various rituals. Hochstein and Paradies (1957) first identified the harmala alkaloids as major components of hoasca. Principal alkaloids were determined to be harmine, harmaline, and tetrahydroharmine. These alkaloids are known as beta-carbolines, and generally would be expected to have similar pharmacology. Rivier and Lindgren (1972) carried out a

similar characterization of *banisterioposis* and *psychotria*, the two plants used to prepare hoasca. Both harmine and DMT were the principal alkaloids identified. These latter workers concluded that a typical dose of hoasca (200 mL) would contain 25 mg of DMT and 40 mg of beta-carbolines.

10. It is presently believed that the admixture of DMT with harmala alkaloids (harmine, harmaline, tetrahydroharmine) that is contained in hoasca leads to oral activity of the DMT therein because the harmala alkaloids inhibit the function of monoamine oxidase in the liver and elsewhere that would ordinarily destroy orally administered DMT (McKenna 1996; Strassman et al. 1996). Oral administration of DMT following inhibition of monoamine oxidase would be expected to produce a slower onset of action of the DMT than following smoking or parenteral administration. That is exactly what is observed in subjects who have consumed hoasca.

11. It is not proven, however, that all of the psychological effects of hoasca are simply the result of oral administration of DMT. On the basis of interaction studies between beta-carbolines and DMT in the rat, Freedland and Mansbach (1999) suggest that the unique effects of hoasca may be due to factors in addition to an increase in bioavailability of orally ingested DMT. They speculate that differences in the interactive effects of DMT with harmine and the extract, though subtle, could reflect the actions of other alkaloids present *in-banisteriopsis*. Thus, the psychological state produced by hoasca may not necessarily be completely attributed to the simple combination of DTM with beta-carbolines, but may be more complex as a consequence of the ingestion of other alkaloids contained in the hoasca tea, even if those alkaloids are only present in minor amounts.

12. Callaway et al. (1999) measured plasma levels of DMT in 15 male subjects who had orally ingested an average of 28.8 mg of DMT contained in a sample of hoasca. Peak plasma concentrations occurred approximately 100 minutes after ingestion, and reached an average concentration of 15.8 ng/mL. In all published studies, psychological effects have been shown to parallel plasma concentration levels of DMT. Thus, the 100 minutes to peak concentration in this study can be contrasted with the 10-15 minutes reported by Gillin et al. (1976) for peak plasma concentrations following intramuscular injection, and to the 90-120 seconds observed by Strassman and Qualls (1994) following intravenous administration. The peak plasma concentrations of DMT measured in these studies also vary: about 16 ng/mL in the study by Callaway et al. (1999), 100 ng/mL in the Gillin et al. study (1976), and between 32 and 205 ng/mL in the Strassman and Qualls study (1994).

13. One can readily conclude several things from these data. First, when hoasca is ingested orally, peak plasma DMT levels are the lowest, and are achieved only after approximately 100 minutes, second, administration of pure DMT by the intramuscular route gives much higher peak plasma DMT levels (100 ng/mL) in the much shorter time of 10-15 minutes. Finally, intravenous administration of DMT gives very high peak plasma concentrations of up to 204 ng/mL in less than two minutes after injection.

14. The descriptions of the intensity of effects of these three experimental conditions are completely accounted for by these observed clinical phenomena.

Orally ingested hoasca produces a less intense, more manageable, and inherently safer altered state of consciousness. By contrast, when pure DMT is given by injection, either intramuscularly or intravenously, the reported experiences are very intense, in some cases frightening, and inherently less psychologically safe because of the possibility of inducing panic, anxiety, or a paranoid reaction. These conclusions are perhaps amplified by the realization that in the analyses carried out by Callaway et al. (1999), the dose of DMT consumed in the hoasca was 0.48 mg/kg, as the free base. Although this dose is nearly two-fold higher than the 0.4 mg/kg fumarate dose (but equivalent to only 0.25 mg of the free base) used by Strassman and Qualls (1994), in the latter study the dose was administered intravenously and it produced rapid, very intense effects. Because of the facts noted above, a similar dose of DMT, given orally, would be expected to have a slower onset. Because plasma concentrations would not peak suddenly, as they would following intravenous administration, but would rise slowly, the psychopharmacological effects of DMT would be expected not to be as intense or as unpredictable. One would anticipate that an oral dose would precipitate less anxiety and lower the potential for any adverse psychological effects.

15. No published evidence suggests that DMT possesses significant physiological toxicity, and there is very little published evidence concerning the toxicity of harmine or harmaline. One may be reasonably sure that, if the beta-carboline type alkaloids possessed unique or unusual toxicity or other pharmacological properties, due to the fact that they have been ingested for many years in the form of hoasca, studies reporting

the toxic effects of these substances would have appeared in the literature.

16. The principal recognized pharmacology of the beta-carbolines is as reversible inhibitors of monoamine oxidase (MAO inhibitors). MAO inhibitors were the first successful class of antidepressant agents. Toxicity associated with these drugs generally occurred when patients using MAO inhibitors subsequently ingested foods that contained pressor amines such as tyramine, which could elevate blood pressure. A similar toxicity might occur in patients who had ingested beta-carbolines and then ingested tyramine-containing foodstuffs. A major difference however, is that the early MAO inhibitors used for treating depression were irreversible and long acting, whereas the beta-carbolines are reversible and relatively short-acting substances.

17. Toxicity of beta-carbolines would be related to the dose consumed, so it is appropriate to consider what dosages of harmine or beta-carbolines might be ingested in a typical dose of hoasca. The best quantitative study so far published concerning the amounts of beta-carbolines present in hoasca was by Callaway et al. (1999). In the study by Callaway et al. hoasca was prepared from the pounded bark of *B. caapi* Spruce ex Grisebach (Malpighiaceae) and the leaves of *Psychotria viridis* Ruíz et Pavón (Rubiaceae). Analysis of a batch of hoasca prepared under the auspices of the Uniao do Vegetal (UDV) in Brazil in 1993 revealed a beta-carboline content of:

Harmine:	1.70 mg/mL
Harmaline	0.20 mg/mL
Tetrahydroharmine	1.07 mg/mL

This preparation, freshly prepared, was administered to 15 human male members of the UDV, ranging in age from 26 to 48. These subjects had used hoasca as part of their regular religious practice for at least 10 years. The members of the UDV typically ingest hoasca on a biweekly basis. The amount of hoasca administered was approximately 2 mL/kg of body weight. For a 70 kg man, therefore, the typical dose of the three alkaloids consumed in this study would be as follows:

Harmine:	238 mg
Harmaline	28 mg
Tetrahydroharmine	150 mg
DMT	35.5 mg

Maximum plasma concentrations (C_{max}) of the three beta- carbolines were as follows:

Harmine:	114.8 ± 61.7 ng/mL (n = 14)
Harmaline	6.3 ± 3.1 ng/mL (n= 5)
Tetrahydroharmine	91.0 ± 22 ng/mL (n = 14)

18. It was noted that harmaline levels were already low in the hoasca, and the plasma harmaline levels of 9 of the & volunteers were below the limits of detection of the assay.

19. Grob et al. (1996) undertook neurological and psychiatric assessment of the same 15 subjects, members of the UDV, and compared them to matched controls. Although specific testing was not carried out for neurological deficits of the sort that occurred following administration of a very large dose of harmaline to rats (O'Hearn and Molliver, 1993, discussed below), such

deficits would have been obvious to the investigators had they been present.

20. There has been some speculation, e.g. Cobuzzi et al. (1994), that N-methyl-beta-carbolinium analogues might produce effects resembling those of MPP+, a dopamine neurotoxin that can lead to a severe form of drug-induced parkinsonism. The symptoms of parkinsonism are readily evident in humans and would include signs such as tremor and musclar rigidity, none of which has been observed in long term users of hoasca. One is led to conclude that this concern is unwarranted with respect to hoasca consumption.

21. One report has been published showing that harmaline given at a dose of 40 mg/kg caused loss of Purkinje cells in narrow radial bands of cerebellum (O'Hearn and Molliver 1993). These same investigators later postulated (O'Hearn and Molliver 1997) that the degeneration of these Purkinje cells following harmaline could be attributed to a sustained increase in neuronal firing in an area of the brain known as the inferior olive. Repetitive firing of these neurons causes the release of the amino acid neurotransmitter glutamic acid in the cerebellum. Glutamic acid is an excitatory neurotransmitter, and excessive release onto Purkinje cells in the cerebellum leads to their overstimulation and death through a mechanism known as excitotoxicity. Although this might appear to be an area of concern regarding harmaline toxicity, a closer inspection reveals certain facts that minimize this concern. O'Hearn and Molliver administered to rats intraperitoneal doses of harmaline either of 40 mg/kg one time, or 24 mg/kg three times, every 24 hours. A simple extrapolation of the 40 mg/kg dose to humans would lead to an equivalent dose of 2400 mg in a 60 kg man. A

dose of hoasca would not contain this amount of harmaline. Amounts of harmaline present in hoasca have been determined in all studies to be very small. One can also use a scaling procedure that corrects for body weight. For example, Mordenti (1986) has provided an equation that makes possible an estimation of doses in one animal species, given the dose in other species. Using the weight of the rats in the study by O'Hearn and Molliver (1993) as 200g and the dose as 40 mg/kg, the comparable estimated dose for a 70 kg human is calculated as: Human dose = 8 mg (70/0.20)^0.7 = 483 mg. The actual approximate human dose ingested in the study reported by Grob et al. (1996) was only 28 mg, 17-fold smaller than the dose employed in the study by O'Hearn and Molliver. A second reason for reduced concern about potential cerebellular damage from beta-carbolines is the observation that neurotoxic doses of harmine and harmaline also cause tremor in mice or rats (Zetler et al. 1972; 1974). For example, in the work by O'Hearn and Molliver (1997) the neurotoxic regimen of harmaline led within minutes to a high frequency generalized tremor of the trunk, head, and limbs, and ataxic gait, followed by a period where the animals lay limp and motionless. The high frequency tremor in rats lasted about 12 hours. There is no report of users of hoasca experiencing tremor or atonia that would be related to repetitive firing of olivary neurons or excessive stimulation of the cerebellum.

22. Speculation that harmaline might produce neurotoxicity in humans similar to that observed in rats however, is not supported by the actual results of the neurological examinations of the 15 UDV subjects who had taken hoasca regularly over a period of ten years.

It is commonly recognized that lesions of the cerebellum would produce observable toxic effects such as ataxia, loss of motor coordination, postural tremor, and other overt symptoms. The assessments in the 15 subjects did not reveal any such problems, nor is there any evidence for an increased incidence of any, adverse or abnormal mental or physical effect among members of the UDV in Brazil. Significant lesions of the cerebellum should be easily detected if they occur. Ataxia, or loss of motor control, is a common symptom of certain types of cerebellar damage (Bastion 1997). Symptons of bilateral cerebellar damage, which would be anticipated if harmaline or harmine produced loss of Purkinje cells in humans, would include impaired ability to plan and program daily activities, deficits in visuospatial organization for a concrete task and deficient visual-spatial working memory, lower general intellectual abilities than controls, difficulties with memory retrieval, and slower speed of information processing (Botez-Marquard and Botez 1997). Data from clinical and functional studies indicate that the cerebellum has a central coordinating function not only of movement but also regulating thought (Arriada-Mendicoa et al 1999). In view of the results of the neurological examination of UDV members carried out by Grob et al. (1996) there is absolutely no evidence to suggest that the use of hoasca on a regular basis within the context of the UDV ritual produces neurological deficits of the kind that would be expected by damage to the cerebellum. Such deficits should be readily detected but in fact the UDV members were as a group higher functioning than the matched controls.

23. The is known that beta-carbolines such as harmine and harmaline can interact with DNA. Studies

have shown, however, that although harmine and harmaline may modify or enhance genotoxic consequences of *other* compounds, or may inhibit DNA excision repair mechanisms, they are not mutagenic in and of themselves (de Meester 1995; Shimoi et al 1992). That is, concern about this potential chemical property of the beta-carbolines would only be relevant if hoasca users were concurrently ingesting substances known to produce direct damage to DNA.

24. Finally, concerns over potential toxicity of harmine are also somewhat reduced by the fact that it was used under the name "banisterine" to treat Parkinson's disease in the late 1920s. It was administered subcutaneously by several groups (see review by Sanchez-Ramos 1991) in doses of 3-50 mg. It produced some beneficial effect but was ineffective in relieving tremor. Doses of 40 mg tended to cause nausea and bradycardia in one study but in another the side effects were reported to be slight. A self-experiment reported by Halpern (1930) indicated that an oral dose of 40 mg or 30 mg subcutaneously produced predominantly restlessness, with no effect on consciousness.

25. Taken as a whole, although there is actually very little known about the toxicity of beta-carbolines, it is my opinion that there is nothing in the scientific literature to suggest that these substances represent a significant toxicological hazard when used episodically in the context of the UDV ritual. Speculation about any relationship between toxicity in rats and humans is presently resolved by the fact that members of the UDV who have used hoasca for at least 10 years manifest no apparent neurological abnormalities (Grob et al 1996).

26. The government relies on an affidavit of Natalia P. Urtiew which claims that, "the extraction of dimethyltryptamine from the tea-like solution is relatively simple compared to preparing the compound synthetically." The government further claims that, "DMT in its smokeable or injectable form is easily extracted from ayahuasca; indeed it is easier to extract DMT from ayahuasca than to synthesize it." Opp. at 30. Both assertions are incorrect.

27. It is my opinion that the extraction of hoasca tea will not lead to a useful drug of abuse, either if administered by smoking or inhalation, or by injection. I do not believe that diversion of hoasca tea represents a significant drug abuse threat with respect to extraction of one of the alkaloids, DMT, and use of pure DMT obtained therefrom. Any person who was committed to illegal trafficing of DMT would not attempt to obtain same by extraction of hoasca tea, but rather would find it far more economical and practical to prepare synthetic DMT. The reasons for my opinion are as follows.

28. Because the hoasca represents the total plant extract, a simple basification of the hoasca, followed by organic solvent extraction, as Urtiew suggests, will lead to an extract containing the entire alkaloidal content of the hoasca tea. Using as an example the analyzed content reported by Callaway et al. (1999), extraction of 1.0 liter of hoasca tea would lead to an extract containing approximately the following:

Harmine:	1700 mg
Harmaline	202 mg
Tetrahydroharmine	1071 mg
DMT	239 mg

The total extract would weigh in excess of 3.21 g, containing in addition to that amount an unknown quantity of other uncharacterized alkaloids. When smoked, the dose of DMT for a 70 kg human is approximately 50-60 mg, similar to the 0.7 mg/kg administered via the intramuscular route by (Gillin et al. (1976). Thus, an organic extract of 1.0 liter of the analyzed hoasca tea would represent approximately 4 x 60 mg smoked doses, with each dose contained in a matrix of mixed plant alkaloids weighing 803 mg 3.21 g alkaloids/4 doses). The problem with the government's claim is the simple fact that it is unlikely that an individual would be able efficiently to smoke, and thus pyrolyze, 803 mg of a complex plant extract that would probably be physically characterized as a brown, sticky, gum-like material. Furthermore, there is no report on whether humans can physically tolerate large amounts of vaporized beta-carbolines within the lungs and respiratory system. In addition, it is unknown whether pyrolysis of 803 mg of crude alkaloids, only approximately 7% of which is DMT, will efficiently deliver a psychoactive amount of DMT to the lungs from this complex mixture. The only solution to this problem would be a complex separation method of the crude hoasca extract, probably involving a preparative column or high performance liquid chromatography. This separation step would be expensive and time-consuming and would completely eliminate any economic advantage that might be seen in the ready availability of an organic solvent for the extraction.

Separation of the alkaloids to obtain pure, or nearly pure, DMT is not likely to be applied on a useful scale because it is simply uneconomical. Large glass columns and a large amount of expensive column packing

material would be required, or very expensive HPLC and preparative HPLC equipment would be necessary. In addition, some DMT would be lost in the purification scheme, because there are inevitable losses in any purification scheme.

29. Urtiew states that the chemicals to prepare synthetic DMT are not readily accessible (Urtiew affidavit). This is incorrect. Only a few reagents are required, all of which are available in large quantity as Industrial chemicals. The synthesis involves only three very simple reactions, carried out in only two discrete steps. The skill required to carry out these reactions is easily acquired, and is not extensive. She also claims that these chemicals possess inherent dangers (Urtiew affidavit). Although this is true, the same could be said for most chemicals in a laboratory. Oxalyl chloride, one of the necessary reagents, is toxic; diethyl ether and tetrahydrofuran are flammable; and lithium aluminum hydride is flammable and ignites if water is added to it. Nevertheless, in my opinion, procedures using these chemicals are really no more complicated or dangerous to a chemist than those required to prepare other synthetic drugs of abuse such as amphetamine or methamphetamine.

30. One who is disposed to traffic in DMT itself and who has committed the laboratory resources to this activity, will be able to obtain the commercial chemicals necessary to prepare the pure material. Several years ago in my laboratory we prepared pure DMT for an FDA-approved clinical study by Dr. Rick Strassman at the University of New Mexico School of Medicine, as part of a collaborative medical research project (Strassman and Quails 1994; Strassman et al., 1994). Although we purchased the reagents to synthesize DMT in small

amounts and in high purities, constraints under which a clandestine laboratory would not operate, I have calculated that the approximate costs for the chemicals to prepare 34.5 g of DMT were approximately $283 (obtained from the Aldrich Chemical Company, Milwaukee, WI: 60 g indole; 64.8 g oxalyl chloride; 53.5 g dimethylamine; 21 g of $LiAlH_4$; 4 liters of anhydrous diethylether, and 300 mL of anhydrous tetrahydrofuran). No special approvals were required to purchase these chemicals. This 34.5 g of DMT, corresponding to 690 x 50 mg doses, was obtained after extensive purification to obtain the material in a high state of purity to meet FDA standards, and it is highly probable that a clandestine laboratory might obtain a larger yield (i.e. more doses) of less pure product. If one considers that 1.0 liter of the hoasca tea theoretically provides approximately four or five doses of DMT, to obtain 690 x 50 mg doses by extraction of hoasca tea, one could calculate that a volume of 172.5 liters (approximately 48 US gallons) of hoasca tea would have to be processed. This would provide in excess of 554 grams (approximately 1.2 US pounds) of crude plant alkaloid extract, somewhat less than 7% of which (about 38 g) would actually be DMT. As noted above, this material would be of dubious value for smoking purposes.

31. The total alkaloid I extract from hoasca tea could not be directly injected because it would not be water-soluble. The crude alkaloidal extract would first have to be acidified, probably with hydrochloric acid, in order to attempt to obtain water-soluble material. Even supposing that acidification gave complete water solubility, the amount of material that would have to be injected would be quite large. Given intramuscularly,

the bolus injection of 600-800 mg of a mixture of crude plant alkaloid salts necessary to receive an effective dose of DMT would have to be put into a very large volume of water to prevent intense pain and tissue necrosis upon injection. Given the fact that physiological saline is 0.9% sodium chloride, if as an initial assumption the molecular weight of the crude hoasca-extracted salts is taken to be the same as harmine hydrochloride, and correcting for the difference in molecular weights of sodium chloride and harmaline hydrochloride, the injection volume to approach isotonic compatibility with body fluids would be on the order of 21 mL (3.82 g harmine hydrochloride/100 mL).

Typical injection volumes are on the order of 1-2mL; therefore, 21 mL would represent a huge volume to pump into any muscular tissue. Furthermore, because beta-carbolines such as harmine are not as basic as ordinary aliphaticamines, the pH of a solution of this extract would likely be very acidic (pH«7) and would provide intense pain upon injection. Solutions that are compatible for injection are usually buffered so that their acidity (pH) is close to that encountered in physiolocogical tissues (pH 7.4). The pain and tissue damage would be expected to continue for some time, perhaps days to weeks, due to likely tissue necrosis at the injection site. Because DMT is known not to be physiologically addictive, there is no compelling motivation to administer extracts of hoasca tea that would be associated with such painful and long-lasting trauma.

32. Even if one were to argue on some basis that the enterprise of extracting plant alkaloids from hoasca would be pursued, then one also would have to propose a means whereby the laboratory performing the process could obtain a continuing supply of hoasca tea

that would have to be measured in hundreds or thousands of gallons to be economically profitable. As noted above, nearly 50 gallons of tea would provide, at most, fewer than 700 doses of DMT. Clandestine laboratories will not be productive if extensive extraction and purification resources must be dedicated to the production of fewer than 700 doses of a drug from 50 gallons of crude aqueous extract. In addition, large-scale extractions and purifications are not as simple as laboratory scale analytical separations, such as those carried out in a forensic laboratory, but require specialized equipment and techniques. By contrast, the chemical reagents for synthesis of DMT are continually available as commercial entities; all are widely used in the legitimate chemical and drug industry. It is my opinion that they can be obtained by clandestine laboratories either by purchase or by diversion, subject only to the ability of regulatory agencies to restrict their commercial availability.

33. Many other plants contain DMT. One of them is mimosa hostilis, a bushy treelet found in Brazil. Traditionally, certain groups in Brazil make an infusion of the roots that is taken in liquid form as a drink. The name of the infusion is "vinho de jurema" and it is used in religious rites, similar to the use of hoasca in the UDV religion. Although not much is known about this shrub it is likely that it a lso contains some MAO) inhibitors because the infusion appears to be orally active (Schultes and Hofmann 1980). The presence of an MAO inhibitor in mimosa hostilis would not be surprising because at least one other member of the genus, mimosa scabrella, has already been shown to contain a beta-carboline (De Moraes et al., 1990).

34. Using moclobemide as a general model.for the action of reversible MAO-A inhibitors—the best approximation that may be available to the beta-carbolines—one finds that reversible MAO-A, inhibitors may have efficacy against depression as good as the SSRIs and are better tolerated with less toxicity than nonselective, irreversible MAO inhibitors. Moclobemide only weakly potentiates the pressor response induced by tyramine or other indirectly-acting sympathomimetic amines, with no need to avoid dietary tyramine or over-the-counter decongestants as was the case with older MAO inhibitors (Fulton and Benfield 1996). In general, reversible MAO-A inhibitors are viewed today by pharmaceutical scientists and pharmacologists as being much safer and having fewer side effects than the older nonselective irreversible type of MAO inhibitors. There is no reason to suppose that reversible MAO-A inhibitors of the beta-carboline type would differ significantly from moclobemide in their pharmacology. Whereas the combination of an SSRI with a reversible MAO-A inhibitor would be contraindicated, and could have adverse health consequences, there is no evidence at present to suggest that such an in teraction would be life-threatening when therapeutic dosages of the SSRI were employed. It is my understanding that the UDV questions prospective members regarding any SSRIs they are taking before permitting them to drink the tea.

35. The government also claims that that the presence of MAOIs creates a significant health risk that is not present in the case of peyote. Opp. at 41. This is speculation. There are a number of isoquinoline alkaloids present in peyote that chemically are similar to the beta-carbolines and are produced in the plant by

similar biochemical reactions. It is indeed possible that some of the chemical constituents present in the whole peyote plant possess the ability to inhibit monoamine oxidose A. The fact that none of the related isoquinolines present in peyote have been examined for ability to inhibit monoamine oxidase A does not prove that none of them have this activity. A search of the medical literature from 1965 through the present using the National Library of Medicine and the keywords: isoquinoline AND monoamine oxidase returned 180 hits. Typical of many of these hits was the work by Thull et al. (1995), where it was shown that a series of isoquinolines of a chemical type related to some of the components in peyote were reversible inhibitors of monoamine oxidase, with a selectivity for monoamine oxidase A.

36. Dr. Genser expresses concern (p 27) about use of ayahuasca during pregnancy. He notes that the, "drugs in ayahuasca cross the placental barrier. . ." as if that were a unique occurrence. It is now widely recognized that there is no placental barrier, and that most drugs taken by the mother have access to the systemic system of the fetus (Briggs et al. 1990, p xii).

37. Terrance W. Woodworth in his report, lists as one of his information sources, "Ayahuasca: a review of the basic pharmacology," prepared by the Drug; & Chemical Evaluation section, Office of Diversion Control, Drug Enforcement Administration., prepared December 17, 2000. There are a number of erroneous and dubious statements, citations, and conclusions in that review, which I shall refer to as ARBP. In particular, it is stated in the ARBP that, "both harmine and harmaline have been demonstrated 50 be hallucinogenic in humans (Grella et al., 1998)." Grella et al.

(1998) cite Slotkin et al. (1970) as one source for this information. Actually, Slotkin et al (1970) reported that 35-45 mg of harmine given intravenously to humans produced various symptoms, including bradycardia, trouble in focusing the eyes, tingling, hypotension, cold extremities and light-headedness. Nowhere do they suggest that these doses produced hallucinogenic effects.

38. The ARBP also cites publications by Claudio Naranjo and Jonathon Ott. Naranjo is a former Chilean psychiatrist who never had formal research training and published only uncontrolled, and anecdotal studies, mostly in the form of popular books. At the time he worked with ayahuasca, he was unaware that its effects were due to anything other than beta-carbolines. Ott does not possess advanced education, has never had a formal research or teaching appointment, and publishes the results of his own personal research. Neither of these sources can be considered to be authoritative.

39. The earliest source to report hallucinogenic activity for harmine is that of Pennes and Hoch (1957), also cited by Slotkin et al. (1970). Indeed, Pennes and Hoch (1957) is the principal authoritative report cited by the ARBP, by Grella et al. (1998), and by Glennon et al. (2000) as a precedent for the hallucinogenic activity of beta-carbolines, including harmine. What is actually reported by Pennes and Hoch is a study of three "psychotomimetics" with diverse structures and mechanisms of action. They studied nalline (nalorphine) an opiate antagonist, WIN-2299, a cholinergic antagonist that would have effects similar to atropine, and h;armine, a beta-carboline. The effects of these drugs were studied in, "mental patients at the New York State Psychiatric Institute." 27/32 subjects were

schizophrenics and the remaining 5/32 subjects suffered from what were described as, "severe-psychoneuroses or recurrent depression." Effects of any mind-altering drug in this population of subjects cannot be extrapolated to effects in normal humans. In particular, such a study, cannot be used as the basis for assigning the psychopharmacology of an unknown compound. When this study was published, in 1957, there was not general awareness in the medical community of the pharmacological distinctions between many psychoactive compounds and the general category of "psychotomimetic" was often a catchall phrase, used to describe compounds that disrupted consciousness in a variety of different ways, presumably in ways that mimicked psychosis (hence the term "psychotomimetic"). Pennes and Hoch note that the drug was not hallucinogenic by the oral or subcutaneous routes, which must be noted as most unusual , given its apparent oral activity in other studies. Administration of 150-200 mg, intravenous ly, was said to produce "visual hallucinations" in 5/11 subjects. In the ARBP, this finding is erroneously cited as arising from Slotkin et al. (1970), a confusion which probably arose from a reading of Grella et al, (1998) on page 100. From a reading of the work of Pennes and Hoch (1997) it is clear that they assumed that the hallucinogenic effects of "yahé," a preparation similar to ayahuasca, were due to its harmala alkaloid content. They were unaware that these decoctions also contained DMT, a common misconception of that era.

40. The more recent publications from Glennon's laboratory (Grella et al. 1998, Glennon et al., 2000) cite the early papers by Slotkin et al (1970) and Pennes and Hoch (1957) and attempt to build a rationale for their own work studying beta-carbolines as hallucinogenic

substances. In addition to those references, the Glennon papers also cite work by Naranjo, where he claimed that harmialine was hallucinogenic. Like many early investigators, Naranjo also assumed that the psychoactive component of ayahuasca (or yagé) was a harmala alkaloid because the principal plant used to prepare these a decoctions was *banisteriopsis*. He too failed to realize that an important component of these mixtures was psychotria which contained DMT. Thus, his efforts were biased toward studies of what he believed was the active component of these teas.

41. Grella et al (1998) cite an earlier report by Glennon et al. (1983) that rats trained to discriminate the effects of "the hallucinogenic amphetamine derivative known as DOM recognize the effects of harmaline as being very similar. Nevertheless, this assay can provide what are known as "false positives." Compounds that have a general activating effect on the serotonin system may provide false positives. Because harmala alkaloids are MAO inhibitors, they may increase levels of brain serotonin, leading to activation of serotonin systems that the animals may misperceive as being "hallucinogenic." When rats were trained to discriminate harmaline injections from saline (Grella et al 1998), they did not fully recognize the effects of a test dose of the hallucinogenic amphetamine DOM. Thus, symmetrical substitution did not occur. Unless symmetrical substitution occurs, one cannot conclude that two drugs have identical or very similar pharmacology. Grella et al. (1998) also cite an earlier report by Nielsen et al. (1982) wherein it was found that in rats trained to discriminate LSD from saline, that a dose of 8 mg/kg of harmaline failed to subtitute completely, and that tremors prevented tests of higher doses. Therefore,

this report also fails to provide evidence that harmaline is hallucinogenic.

42. The ARBP also notes work cited by Glennon (2000), who cite an early report from their own laboratory, to wit, "hallucinogenic beta-carbolines bind with modest affinity at rat fundus 5-HT receptors (Glennon et al 1981)." The rat fundus assay cannot, however, be considered to be a reliable predictor of hall hallucinogenic activity (Nichols et al 1984). As pointed out by Nichols et al (1984) 'the method used to determine affinity in those studies using the rat fundus was theoretically flawed and not methodologically sound.

43. More importantly, Glennon et al (2000), as well as numerous other reports from this laboratory, recognize that the "classical" hallucinogens are characterized by a similarity of pharmacology to the compounds mescaline, psilocybin, and LSD, the principal component of which is the ability to activate brain serotonin receptors of the 5-HT_{2A} Subtype. Although Grella et al. (1998) and Glennon et al. (2000) report modest affinities at this receptor for harman, harmine, and 5-methoxyharmalan (146, 230, and 137 nanomolar, respectively, displacing [^{3}H]ketanserin, and 268, 397, and 86 nanomolar, respectively, displacing [^{3}H]-DOB), Glennon et al (2000) reported that none of the dihydro-(ß-carbolines nor harmaline was able to *activate* the receptor, using the standard and PI hydrolysis assay. This latter finding is particularly conclusive because all known hallucinogens, including LSD, DMT, psilocin, and mescaline, have the ability to stimulate PI turnover as a consequence of their activation of serotonin 5-HT_{2A} receptors.

44. The anonymous author(s) of the ARBP recognizes the contradictory findings in the literature when he/she

states, "Prior studies would favor a common 5-HT2A component of action, but in light of the assays in the Glennon et al (2000) study a definitive answer has not yet been reached." The contradiction lies in the assumption that the harmala alkaloids are hallucinogenic, when in fact there are no strong data to indicate that they are. Thus, an attempt is made to rationalize the lack of supporting animal or in-vitro study results that would indicate hallucinogenic activity for beta-carbolines in the face of an unwarranted initial assumption that they are hallucinogenic in man.

45. The ARBP also relies on a single study by Pomilio et al (1999) to support the conclusion that, "ayahuasca represents is an experimental psychosis with common features with the transmethylation hypothe sis of schizophrenia." This is an absolutely absurd conclusion, without any basis in fact.

46. The ARBP finally concludes, "Recently published data in 1999 and 2000 clearly demonstrate that the pharmacology of ayahuasca IS NOT the pharmacology pharmecology of DMT." As noted earlier in this report (at 11) *Freedland* and Mansbach (1999) reach a similar conclusion, namely, that the pharmacology of ayahuasca is not identical to the pharmacology of DMT. Presumably, the author of the ARBP is relying on the reports from Grella et al (1998) and Glennon et al. (2000) that beta-carboline s are hallucinogenic in man, but with a mechanism of action that has not been determined. I do not believe any definitive evidence has been published to show that ordinary doses of harma alkaloids are hallucinogenic in man. They may, however, have unknown psychoactive or pharmacological properties that lead the ARBP conclusion to

be correct, and consistent with that of Freedland and Mansbach (1999), but for the wrong reasons.

47. Thus, in my opinion, there is no factual basis for the conclusion that harmaline or harmine have hallucinogenic properties. The absence of controlled clinical studies or appropriate animal or in-vitro data prevent such a conclusion. Therefore, the discussion of ayahuasca in the ARBP upon which Woodworth relied cannot be viewed as factual and accurate.

B. Data and Information Considered in Forming Opinions

The materials I considered in forming my opinions are listed in Exhibit 2. In addition, I reviewed all the declarations and exhibits filed to date in this case, including the declarations and exhibits of the proposed amicus, Santo Daime. I also reviewed the depositions of Drs. Genser and Jasinski and some of 'the documents on which they relied.

C. Exhibits

None.

D. Qualification, and Publications

My qualifications and the publications I have; authored within the past ten years are listed in my *curriculum vitae* which is attached as Exhibit 1 to this report.

E. Compensation

My compensation for work on this matter is $350.00 per hour.

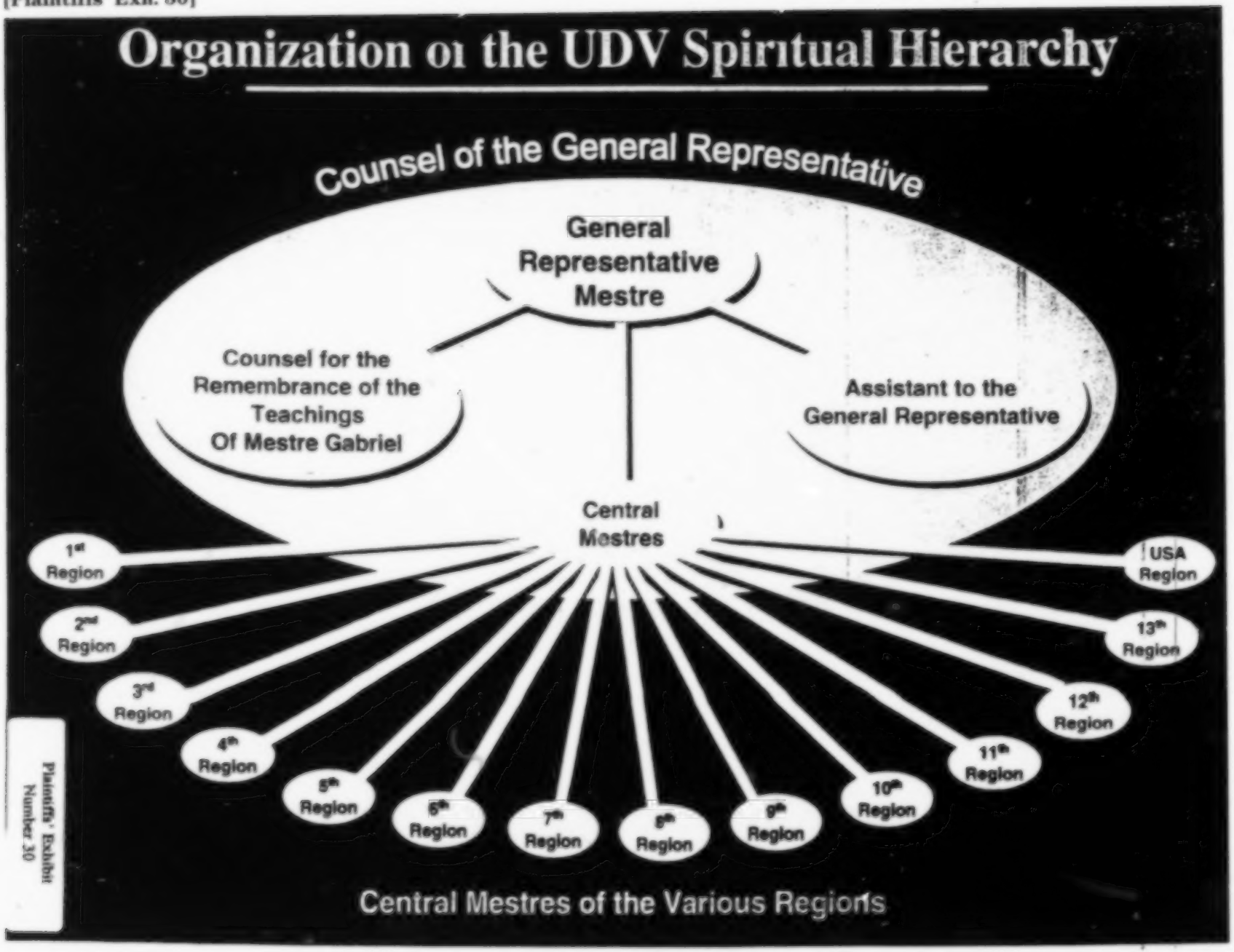
F. Other Testimony

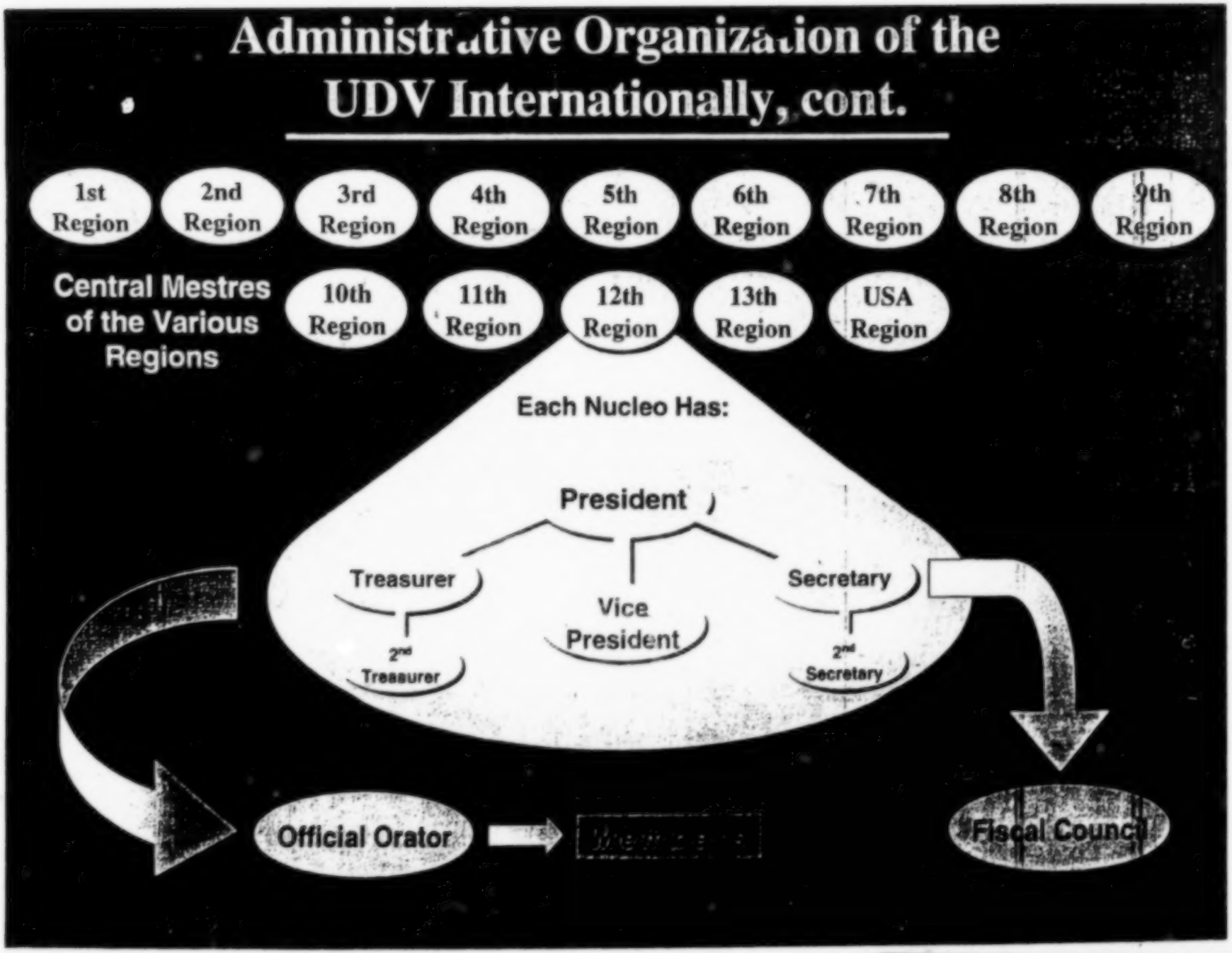
I have not testified as an expert at a trial or deposition during the preceding four years.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this expert report was executed this 28th day of August, 2001, at West Lafayette, Indiana.

/s/ DAVID E. NICHOLS
DAVID E. NICHOLS, PH.D.

[Plaintiffs' Exh. 30]

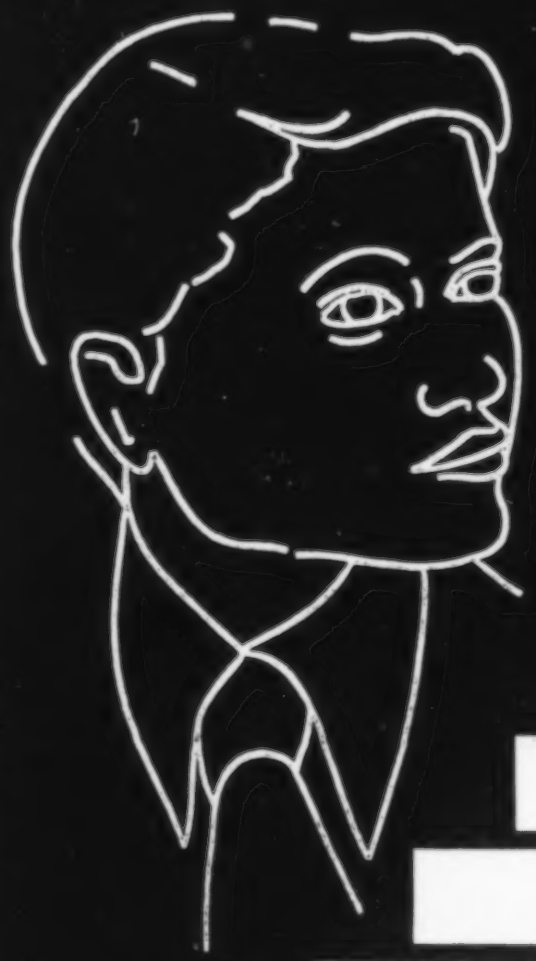




BEST AVAILABLE COPY

Administrative Organization of the UDV Internationally
General Directorate
President
Vice President
Executive Secretary
Financial Director
1st Region
2nd Region
3rd Region
4th Region
5th Region
6th Region
7th Region
8th Region
9th Region
10th Region
11th Region
12th Region
13th Region
USA Region
Central Mestres of the Various Regions

Diagram of Social Hierarchy



Mestre Geral
Representante

Mestre Central
de Regiao

Mestre Representante

Mestre Assistente

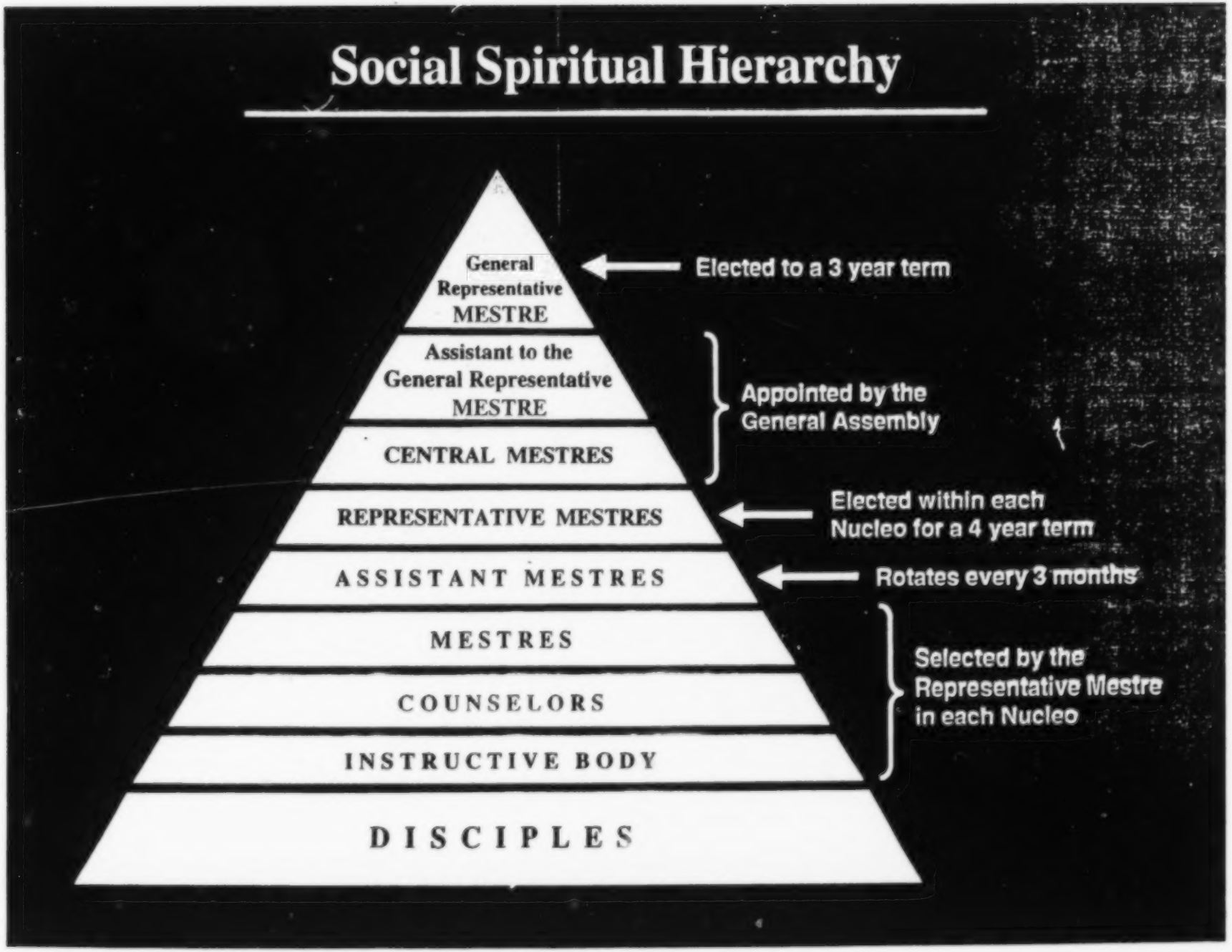
Mestre

Quadro de Mestres

Corpo do Conselho

Corpo Instrutivo

Disciple


Social Spiritual Hierarchy
General Representative MESTRE
Elected to a 3 year term
Assistant to the General Representative MESTRE
CENTRAL MESTRES
Appointed by the General Assembly
REPRESENTATIVE MESTRES
Elected within each Nucleo for a 4 year term
ASSISTANT MESTRES
Rotates every 3 months
MESTRES
COUNSELORS
INSTRUCTIVE BODY
Selected by the Representative Mestre in each Nucleo
DISCIPLES

Spiritual Organization
of each UDV Nucleo
REPRESENTATIVE
MESTRE
ASSISTANT
MESTRE
MESTRES
COUNSELORS
COUNSELORS
TEACHING
&
GUIDANCE
ORIENTATION
ORIENTATION
DISCIPLES

[Plaintiffs' Exh. 31]

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DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY SUMMARY

Page # 1 of 1
BROKERS BOX NO.: 39
FXG International
11099 S.LA CIENEGA BLVD,
Los Angeles CA 90045

1. Entry No. 680-0005986-3	2. Entry Type Code IT ABI7A	3. Entry Summary Date	
4. Entry Date 01-21-97	5. Port Code 2720		
6. Bond No. 300	7. Bond Type Code 9	8. Broker / Importer File No. 02.0005986	
9. Ultimate Consignee Name and Address	10. Importer No. 84-0412429	11. Importer of Record Name and Address CENTRO ESPIRITA 176 VALLEY DRIVE SANTA FE, NM. 87501	12. Importer No. 84-0412429
		13. Exporting Country BR	14. Export Date 01-09-97
NM		16. Country of Origin BR	18. Missing Documents
		17. I.T. No.	19. I.T. Date
20. B/L or AWB No. 343 0116-4281	21. Mode of Transportation 40	23. Manufacturer ID BRCENESPIMAN	22. Reference No.
23. Importing Carrier VP / FLT # 894	24. Foreign Port of Lading	25. Location of Goods/G.O. No. YBT2/VABP AIRLINES	
26. U.S. Port of Unlading 2720	27. Import Date 01-18-97		

28. Line No.	29. Description of Merchandise: 30. A. T.S.U.S.A. No. / B. ADA CVD Case No.	31. A. Gross Weight / B. Manifest Qty.	32. Net Quantity in T.S.U.S.A. Units	33. A. Entered Value / B. CHGS / C. Relationship	34. A. T.S.U.S.A. Rate / B. ADA/CVD Rate / C. I.R.C. Rate / D. Visa No.	35. Duty and I.R. Tax: Dollars	Cents
	Manifest Qty=3 CTNS			NOT RELATED			
001 A	HERB TEAS/INFUS OF MIXED HERBS 2106.90.9987	265	239 KG	300 C407	FREE	0	00
	BLOCK 39 SUMMARY : IPF 311 TOTAL :		2.00 2.00				
	TOTAL ENTERED VALUE			$300			

UDVProd1.000216

.005439

36. Declaration of Importer of Record (Owner or Purchaser) or Authorized Agent

I declare that I am the importer of record and that the actual owner, purchaser, or consignee for customs purposes is as shown above. OR [X] owner or purchaser or agent thereof.

I further declare that the merchandise [X] was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoice are true. OR [ ] was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoice as to value or price are true to the best of my knowledge and belief.

I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate customs officer any information showing a different state of facts.

Notice required by Paperwork Reduction Act of 1980: This information is needed to ensure that importers/exporters are complying with U.S. Customs laws, to allow us to compute and collect the right amount of money, to enforce other agency requirements, and to collect accurate statistical information on imports. Your response is mandatory.

U.S. CUSTOMS USE		TOTALS	
A. Lib. Code	B. Ascertained Duty	37. Duty	0 00
	C. Ascertained Tax	38. Tax	0 00
	D. Ascertained Other	39. Other	2 00
	E. Ascertained Total	40. Total	2 00

41. Signature and Title of Importer or Agent: FXG INTL ATTY IN FACT — 11 22 97

STATISTICAL

Customs Form 7501 (030694)

Plaintiffs' Exhibit
Number 31

[Plaintiffs' Exh. 31A]

374

VARIG

SHIPPER'S LETTER OF INSTRUCTIONS FOR ISSUING AIR WAYBILL
CARTA DE INSTRUÇÕES DO EMBARCADOR PARA DESPACHO INTERNACIONAL

AEROPORTO DE ORIGEM / AIRPORT OF DEPARTURE: MANAUS
AEROPORTO DE DESTINO / AIRPORT OF DESTINATION: LOS ANGELES

EMBARCADOR / SHIPPER

NOME/NAME: CENTRO ESPÍRITA BEN. UNIÃO DO VEGETAL
Conta Corrente No./Current Account No.:
ENDEREÇO/ADDRESS: AV. DES. JOÃO MACHADO
CIDADE/CITY: MANAUS
PAÍS/COUNTRY: BRASIL
CEP/COD:
TELEFONE/PHONE: 235 2460
FAX:
TELEX:

CONSIGNATÁRIO / CONSIGNEE

NOME/NAME: CENTRO ESPIRITA BEN. UNIÃO DO VEGETAL
Conta Corrente No./Current Account No.:
ENDEREÇO/ADDRESS: 176 VALLEY DRIVE
CIDADE/CITY: SANTA FE, NM
PAÍS/COUNTRY: U.S.A.
CEP/COD:
TELEFONE/PHONE: 505/988 5924
FAX: 505/982-5029
TELEX:

VALOR DECLARADO / DECLARED VALUE

PARA TRANSPORTE POR CARRIAGE: SEM VALOR
PARA ALFÂNDEGA POR CUSTOMS: SEM VALOR
PARA SEGURO POR INSURANCE: SEM VALOR
CIA. SEGURO/No. APÓLICE / INSURANCE Co./POLICY NUMBER:
NOTA FISCAL No. / INVOICE No.:

MODALIDADE DE PAGAMENTO / MODE OF PAYMENT

FRETE/FREIGHT:
- [X] PAGO / PREPAID
- [ ] A PAGAR / COLLECT
- [ ] CAIXA / CASH
- [ ] CRÉDITO No. / CREDIT
- [ ] CHEQUE No.

OUTRAS TAXAS / OTHER CHARGES:
- [ ] PAGO / PREPAID
- [ ] A PAGAR / COLLECT
- [ ] CAIXA / CASH
- [ ] CRÉDITO No. / CREDIT
- [ ] CHEQUE No.

INFORMAÇÕES SOBRE MERCADORIAS / INFORMATION ON GOODS

QTDE VOLUMES / NUMBERS OF PKGS: 1
PESO BRUTO / GROSS WEIGHT:
DESCRIÇÃO DE MERCADORIAS/DIMENSÕES / DESCRIPTION OF GOODS/MEASUREMENT: MEDICINAL TEA (HOMECA) (HERBAL)
CERTIFICADO FITOSSANITÁRIO # 149/95
MARCAS E NÚMEROS / MARKS AND NUMBERS:
INFORMAÇÕES SOBRE MANUSEIO E OBSERVAÇÕES / HANDLING INFORMATION AND REMARKS: KEEP UPRIGHT
TIPO DE EMBALAGEM / KIND OF PACKAGE: WOODEN CRATE W/PLASTR

V. Sas. pelo presente estão solicitadas e autorizadas, sob recebimento da nossa carga, a qual não contém dinheiro e/ou cartas, a emitir como nossos prepostos o AWB e outros documentos necessários como também despachar a carga de acordo com as condições de contrato no verso do AWB. Outrossim, estamos inteiramente cientes de nossa responsabilidade pela veracidade de todas as informações aqui declaradas.

You are hereby requested and authorized upon receipt of the consignment described herein, which does not contain either money or correspondance, to prepare and sign the Air Waybill and other necessary documents on our behalf, and dispatch the consignment in accordance with your Conditions of Contract. Furthermore, we are thoroughly aware of our responsability regarding the truthfulness of all informations stated herein.

EMBARCADOR / SHIPPER

NOME/NAME: Antonio de Rezende
DATA/DATE: 25 / 2 / 98
ASSINATURA/SIGNATURE:

VARIG

NOME/NAME:
MATRÍCULA/REGISTRY:
DATA/DATE:
ASSINATURA/SIGNATURE:

No. AWB: .017947

UDVProd1.000093

Plaintiff's Exhibit
Number 31 A

CARGA - 32 (310.782.450.655) 50 c 1

042 MAO 5801-7061 042-5801-7061

[Plaintiffs' Exh. 31B]

AIR WAYBILL

YARIG

Shipper's Name and Address
CENTRO ESPIRITA BENEFICENTE UNIÃO DO VEGETAL, FONE-238-2760
AV. IES. JOÃO MACHADO Nº 1 MANAUS AM BRASIL

Copies 1, 2 and 3 of this Air Waybill are originals and have the same validity

Consignee's Name and Address
CENTRO ESPIRITA BENEFICENTE UNIÃO DO VEGETAL, 176 VALLEY DRIVE, PHONE 505/988.5924 FAX 505/982.5029
SANTA FE - N.M.

It is agreed that the goods described herein are accepted in apparent good order and condition (except as noted) for carriage SUBJECT TO THE CONDITIONS OF CONTRACT ON THE REVERSE HEREOF. THE SHIPPER'S ATTENTION IS DRAWN TO THE NOTICE CONCERNING CARRIERS' LIMITATION OF LIABILITY. Shipper may increase such limitation of liability by declaring a higher value for carriage and paying a supplemental charge if required. Carrier is not liable for the goods until they are received at the issuing terminal or airport office.

Issuing Carrier's Agent Name and City

Accounting Information
1 USD = BRL 0,931
TACT 3.10
FREIGHT PREPAID

Agent's IATA Code | Account No.

Airport of Departure (Addr. of first Carrier) and requested Routing
MANAUS

To	By first Carrier	Routing and Destination	Currency	CHGS Code	WT/VAL PPD	WT/VAL COLL	Other PPD	Other COLL	Declared Value for Carriage	Declared Value for Customs
LAX	VARIG		USD		X				N.V.D.	N.V.D.

Airport of Destination	Flight/Date For Carrier Use only	Flight/Date	Amount of Insurance	INSURANCE - If shipper requests insurance in accordance with conditions on reverse hereof, indicate amount to be insured in figures in box marked amount of insurance
LOS ANGELES- LAX	RG205/836JUL26		N.V.D.	

Handling Information (Shipping marks, number, method of packing, etc.)
01 WOODEN CRATE W/PLASTIC BOTTLE, MARKS AS ADDRESSED.

These commodities licensed by U.S. for ultimate destination ____ Diversion contrary to U.S. law prohibited

No. of Pieces RCP	Gross Weight	Rate Class Commodity Item No.	Chargeable Weight	Rate / Charge	Total	Nature and Quantity of Goods (incl. Dimensions or Volume)
01	63,5 K		64 K	$ 4.22	$ 270.08	MEDICINAL TEA HOASCA-HERBAL AS PER PHITOSANITARY CERTIFICATE NOR 149/C
01	63,5				$ 270.08	

UDVProd1.000101

Prepaid	Weight Charge	Collect
$ 270.08		

Valuation Charge

Tax

Total other Charges Due Agent

Total other Charges Due Carrier

Total prepaid	Total collect
$ 270,08	

Currency Conversion Rates | CC Charges in Destination Currency

BRL 251,44

For Carrier's Use only at Destination | Charges at Destination | Total Collect Charges

Other Charges
Insurance Premium .017919

Shipper certifies that the particulars on the face hereof are correct and that insofar as any part of the consignment contains restricted articles, such part is properly described by name and is in proper condition for carriage by air according to the applicable International Air Transport Association's Dangerous Goods Regulations.

ANTONIO C. ALBUQUERQUE
Signature of Shipper or his Agent

MAOFW IATA CODE 57 9 9219 001 AEROPORTO INTL. EDUARDO GOMES, MANAUS, 25/JULY/1995.
Executed on (Date) at (Place) Signature of Issuing Carrier or its Agent

042-5801-7061

Plaintiff's Exhibit
Number 31 B

[Plaintiffs' Exh. 31C]

Centro Espírita Beneficente União do Vegetal

376

July 26, 1995

Dear Ms.Nuno,

Along with this corespondence please find a signed power of attorney authorizing you to act on our behalf on the receipt of a container being shipped to us from Manaus Brasil today July 26,on Varig flight #205 connecting, in Rio do Janeiro to Varig flight #836 scheduled to arrive in Los Angeles at 8:00 am on the 27th. The package is being shipped from the Centro Espírita Beneficiente União do Vegetal in Brasil to the center of the same name here in the United States. The airbill number is #042-5801-7061.

The Centro Espírita Beneficente União do Vegetal is a religious organization, with its international headquarters and spiritual center in Brasil, established and recognized as a church under the laws of theUnited States. Our Federal I.D. number is #85-0412429. We are incorporated in the State of New Mexico I.D. # 1643311.

You will be acting on our behalf to receive and then reship 50 liters of a liquid herbal extract made from two plants indigenous to the Brazilian Amazon. The two plants which are known as [redacted] used to make a tea which has numerous health benefits including improved mental concentration and purification of the organism. It has been used in this country regularly for this purpose for more than ten years.

The plant extract being imported is not intended for commercial sale. It will be used only by members of the social reigious organization as a health supplement. I would estimate it's value at approximately $3.00-$5.00 per liter or $150.00 - $250.00. The weight of the shipment is 63.5 kilos.

After the container is in your possission please arrange them to be air cargoed to me in Albuquerque through the first available responsible commercial carrier. Of course, all of the reasonable and customary charges associated with the receipt and shipping will be paid once accounted for. Once the flight of the shipment has been confirmed please advise me of the flight number and arrival information by fax at (505) 982-5029.

I thank you for all your efforts on my behalf.

Sincerely,

Jeffrey Bronfman
President

.017962

UDVProd1.000103

176 Valley Drive • Santa Fe, NM 87501 • (505) 988-5924 FAX (505) 982-5029

Plaintiff's Exhibit
Number 31 C

[Plaintiffs' Exh. 32A]

377

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY SUMMARY

Page # 1 of 1.

BROKERS BOX NO.: 39
FXG International
11099 S.LA CIENEGA BLVD,
Los Angeles CA 90045

(1) Entry No.	(2) Entry Type Code	3. Entry Summary Date
689-0005986-3	11 AB17A	
4. Entry Date: 01-21-97	5. Port Code: 2720	
6. Bond No.: 300	7. Bond Type Code: 9	8. Broker / Importer File No.: 02.0005986

9. Ultimate Consignee Name and Address:
NM
STATE

10. Consignee No.: 84-0412429

(11) Importer of Record Name and Address:
CENTRO ESPIRITA
176 VALLEY DRIVE
SANTA FE, NM. 87501

(12) Importer No.: 84-0412429

(13) Exporting Country: BR
14. Export Date: 01-09-97
(15) Country of Origin: BR
16. Missing Documents:
(17) I.T. No.:
(18) I.T. Date:

(19) B/L or AWB No.: 343 0116-4251
20. Mode of Transportation: 40
21. Manufacturer ID: BRGENESPIMAN
22. Reference No.:

(23) Importing Carrier: VP / FLT # 894
24. Foreign Port of Lading:
25. Location of Goods/G.O. No.: YBI2/VASP AIRLINES

26. U.S. Port of Unlading: 2720
(27) Import Date: 01-18-97

(28) Line No.	(29) Description of Merchandise 30. (A) T.S.U.S.A. No. / (B) ADA CVD Case No.	31. (A) Gross Weight / (B) Manifest Qty.	(32) Net Quantity in T.S.U.S.A. Units	33. (A) Entered Value / (B) CHGS / (C) Rate/Ionship	34. (A) T.S.U.S.A. Rate / (B) ADA/CVD Rate / (C) I.R.C. Rate / (D) Visa No.	(35) Duty and I.R. Tax: Dollars	Cents
	Manifest Qty=3 CTNS						
001	HERB TEAS/INFUS OF MIXED HERBS			NOT RELATED			
A	2106.90.9987	265	239 KG	300 C407	FREE	0	00
	BLOCK 39 SUMMARY :						
	IPF	311	2.00				
	TOTAL :		2.00				
	TOTAL ENTERED VALUE			$300			

UDVProd1.000216

.005439

(36) Declaration of Importer of Record (Owner or Purchaser) or Authorized Agent

I declare that I am the importer of record and that the actual owner, purchaser, or consignee for customs purposes is as shown above. OR [X] owner or purchaser or agent thereof.

I further declare that the merchandise [X] was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoice are true. OR [ ] was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoice as to value or price are true to the best of my knowledge and belief.

I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate customs officer any information showing a different state of facts.

Notice required by Paperwork Reduction Act of 1980. This information is needed to ensure that importers/exporters are complying with U.S. Customs laws, to allow us to compute and collect the right amount of money, to enforce other agency requirements, and to collect accurate statistical information on imports. Your response is mandatory.

U.S. CUSTOMS USE		TOTALS	
A. Liq. Code	B. Ascertained Duty	(37) Duty	0 00
	C. Ascertained Tax	(38) Tax	0 00
	D. Ascertained Other	(39) Other	2 00
	E. Ascertained Total	(40) Total	2 00

11 '22 97

(41) Signature of Declarant, Title, and Date: FXG INTL ATTY IN FACT

STATISTICAL

Customs Form 7501 (03098)

Plaintiff's Exhibit
Number 32 A

[Plaintiffs' Exh. 32B]

Centro Espírita Beneficente União do Vegetal

FXG International
VIA TELEFAX

January 16,1997

Dear Francis or Deborah,

I am writing you today to again request your services in receiving an air shipment from Brasil, on our behalf (account #03CET). All of the necessary paperwork should still be in your files. If not please advise me and I will fax you whatever you need.

The shipment, which consists of 2 fifty liter containers is being shipped, from (Manaus) Brasil today, scheduled to arrive in Los Angeles on the morning of Saturday January 18th on either Vasp flight #894 or Vasp flight #235 . The package is being shipped from the Centro Espírita Beneficiente União do Vegetal in Brasil to the center of the same name here in the United States. The VASP air waybill number is #343-0116-4251.

The Centro Espírita Beneficente União do Vegetal is a religious organization, with its International headquarters and spiritual center in Brasil, established and recognized as a church under the laws of the United States. Our Federal I.D. number is #85-0412429. We are incorporated in the State of New Mexico I.D. # 1643311.

You will be acting on our behalf to receive and then reship 100 liters of a liquid herbal extract made from two plants indigenous to the Brazilian Amazon. The two plants which are known as Mariri and Chacrona are used to make a tea which has numerous health benefits including improved mental concentration and purification of the organism. It has been used in this country regularly for this purpose for more than ten years.

The plant extract being imported has no commercial value and will not be sold. It will be used only by members of the social religious organization as a health supplement. If for some reason a value needs to be assigned I would estimate it's value at approximately $3.00 per liter or $300.

After the containers are in your possession please arrange for them to be sent by air to me in Albuquerque through the first available commercial carrier. Please advise the responsible agent that the liquid must not be frozen. If it is stored in New Mexico it must be stored in an area where there is no risk of freezing. Of course, all of the reasonable and customary charges associated with the receipt and shipping will be paid once accounted for. Once the flight of the shipment has been confirmed please advise me of the flight number and arrival information by fax at (505) 982-5029.

I thank you for all your efforts on our behalf.

Sincerely,

UDVProd1.000213

.017905

Jeffrey Bronfman
President

176 Valley Drive • Santa Fe, NM 87501 • (505) 988-5924 FAX (505) 982-5029

Plaintiff's Exhibit
Number 32 B

[Plaintiffs' Exh. 32C]

FXC FAST X-pedient GLOBAL International

customs broker

11099 S. LA CIENEGA BLVD.
SUITE # 185
LOS ANGELES, CALIF. 90045

Phone: (310) 645-3801
IATA No. 01-1-2262
Please Remit To:
P.O. Box 91060
World Way Postal Center
Los Angeles, CA. 90009

INVOICE NO.	INVOICE DATE	YOUR REFERENCE NO
02.0005986	01-24-97	

Thank you for using our Services
PAYABLE UPON PRESENTATION

TO CENTRO ESPIRITA
176 VALLEY DRIVE
SANTA FE NM 87501
JEFFREY BRONFMAN

Acct# 03CET

PIECES	WEIGHT	DESCRIPTION
2	584.22	HERBAL TEA

SHIPPER/CONSIGNEE

CENTRO ESPIRITA /CENTRO ESPIRITA

ORIGIN/DESTINATION	CUSTOMER NUMBER
MANAUS / Los Angeles Int	03CET
ENTRY NO.	**ENTRY DATE**
0005986-3	01-21-97
AIRLINE/STEAMSHIP	**ARRIVAL/DEPARTURE**
VP	01-18-97
AWB/BL NO.	**HAWB**
343 0116-4251	

REMARKS

Disbursements are actual cash outlays for your account. Please remit ASAP. Thank you.

THIS ORDER IS SUBJECT TO THE TERMS AND CONDITIONS ON REVERSE SIDE.

If you are the importer of record, payment to the broker will not relieve you of liability for Customs charges (duties, taxes or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to the "U.S. Customs Service" which shall be delivered to Customs by the broker.

DESCRIPTION OF CHARGES	AMOUNT
ENTRY FEE	95.0
[illegible]	[illegible]
DELIVERY ORDER	7.5
[illegible]	[illegible]
MESSENGER SERVICES	12.5
VALUATION CHARGES	15.5
AIR FRT./DOC TRANSFER FEE	10.0
[illegible]	[illegible]
AIR TRUCKING TO AIRLINE	23.4
AIR STORAGE	[illegible]
TELEPHONE,POSTAGE,PETTIES	7.5
BOND CHARGE	[illegible]
	.005437
PLEASE PAY THIS AMOUNT	$237.0

IMPORTER MUST FURNISH MISSING DOCUMENTS WITHIN THE PERIOD OF TIME AS REQUIRED BY CUSTOMS REGULATIONS TO AVOID CUSTOM PENALTIES.

ORIGINAL INVOICE

UDVProd1.000214

Plaintiff's Exhibit
Number 32 C

[Plaintiffs' Exh. 32D]

380

92

REDACTED

Daily Record Of Events

24

Friday January 24

Santa Fe	7 Days	X	2	14	X	3	=	42
San Francisco	6 Days	X	1	6	X	3	=	18
Seattle	4½ Days	X	2	9	X	3	=	27
Phoenix	4 Days	X	1	4	X	3	=	12
								99

.029011

UDVProd1.000369

Plaintiff's Exhibit
Number 32 D

[Plaintiffs' Exh. 36]

36

OSUNA NURSERY, INC.

501 Osuna Road, N.E. Albuquerque, NM 8711
(505) 345-6644 FAX (505) 345-0019

Guarantee: Retail Trees & Shrubs Planted In Albuquerque Area 1 Year / 1 Time, No Other Plants, Seeds / Bulbs are Excluded, No Cash Refunds.

CUSTOMER'S ORDER NO.	PHONE	DATE
		10-2-01

NAME

ADDRESS

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RET'D.	PAID OUT	
SW			VS				

QTY.	DESCRIPTION	PRICE	AMOUNT	
1	San Pedro Cactus		9	99
		TAX		58
RECEIVED BY		TOTAL	10	57

D PRODUCT 6197 All claims and returned goods must be accompanied by this bill.

B 135979

To Reorder: 800-225-6380 or nebs.com

THANK YOU

Plaintiffs' Exhibit
Number 36

[Plaintiffs' Exh. 37]

Plaintiffs' Exhibit
Number 37

[Plaintiffs' Exh. 41]

SEEDING FOR EROSION CONTROL ON SLOPES

A guide to preventing and controlling erosion furnished by the U.S.D.A, National Resource Conservation Service and the Coarsegold RCD

383

Bare slopes, resulting from road construction, suburban and industrial developments, stream channel and other types of construction on sloping lands, increase soil erosion and stream sedimentation. Vegetation is needed to reduce these hazards. Natural re-vegetation is extremely slow. Seeding, fertilizing, and mulching are recommended for quick stabilization.

Areas to be seeded should have a firm seedbed which has been previously roughened by disking, harrowing, raking, or otherwise worked, to a depth of approximately two inches. Where wood fiber mulch is to be used together with seed and fertilizer, seedbed preparation can be kept to a minimum.

Fertilizer should be distributed uniformly over the area to be seeded just prior to, or at the time of, seeding. A minimum of 80 pounds per acre of available nitrogen and 80 pounds of available phosphoric acid per acre should be applied. Fertilizer can be broadcast, or applied with a hydrolic applicator. Seed, fertilizer and wood fiber mulch can be applied in one operation with this type of equipment.

Seed should be uniformly distributed over the area. Seed and fertilizer should be covered to a depth of one-half inch by raking or harrowing. Seeding recommendations for elevations below 3000 feet with rainfall above 12 inches are as follows:

SEED

SHORT TERM (2YR)	
Wimmera 62 Ryegrass - Rate #/Acre 27	Sept. 15 to Oct. 15 - Broadcast/Mechanical
Annual Ryegrass - Rate #/Acre 27	Sept. 15 to Oct. 15 - Broadcast/Mechanical
Barley - Rate #/Acre 90	Sept. 15 to Oct. 15 - Broadcast/Mechanical
LONG TERM	
Blando Brome - Rate #/Acre 18	Sept. 15 to Oct. 15 - Drill on Slopes flatter than 3:1
Lana Vetch - Rate #/Acre 45	Sept. 15 to Oct. 15 - Drill on Slopes flatter than 3:1
Cucamonga Brome Rate #/Acre 36	Sept. 15 to Oct. 15 - Drill on Slopes flatter than 3:1
Lana Vetch - Rate #/Acre 45	Sept. 15 to Oct. 15 - Drill on Slopes flatter than 3:1
Alta Tall Fescue* - Rate #/Acre 36	Prior to Sept. 15 - Drill on Slopes flatter than 3:1
Hardinggrass*- Rate #/Acre 18	Prior to Sept. 15 - Drill on Slopes flatter than 3:1

*Irrigate for establishment and as necessary for maintenance.

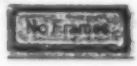
A mulch should be used. This helps to prevent erosion, to anchor seed and fertilizer on steeper slopes, reduces seedling mortality and preserves soil moisture. Two tons per acre of clean straw, anchored by mechanical tucking, or fiber netting.

Irrigation for establishment of both annual and perennial vegetation should always be considered.

Whenever irrigation is practical it will greatly enhance the establishment and effectiveness of the vegetative protection.

A well protected slope will prevent erosion and sedimentation and enhance the beauty of the area. Good vegetative stabilization is the result of seeding, fertilizing , and mulching.

For further information or to view a video on this subject, contact a representative of your local National Resource Conservation Service office at (209) 674-2108 or the Coarsegold Resource Conservation District at P. O. Box 1288, North Fork, CA 93643.



[Plaintiffs' Exh. 42]

U.S. Department of Justice
Drug Enforcement Administration

DEA

DRUG STATISTICS

DEA Arrests (Domestic)

YEAR	Number of Arrest
1988	24,652
1989	25,374
1990	23,162
1991	23,287
1992	24,737
1993	22,018
1994	22,023
1995	24,915
1996	27,457
1997	33,160
1998	37,322
1999	40,383
Total	328,490

Plaintiffs' Exhibit Number 42

Source: DEA

DEA Meth Lab Seizures
National Totals

YEAR	Labs
1973	41
1974	53
1975	53
1976	71
1977	114
1978	143
1979	195
1980	251
1981	184
1982	191
1983	187
1984	198
1985	425
1986	509
1987	682
1988	810

1989	852
1990	549
1991	408
1992	334
1993	286
1994	224
1995	299
1996	734
1997	1,321
1998	1,627
1999	2,155
Total	9,599

Source: DEA

DEA Heroin Signature Program
Heroin seized in United States
Percentage from source area

YEAR	Mexico	Southeast Asia	Southwest Asia	South America
1977	89	9	2	
1978	82	15	3	
1979	48	13	39	

1980	38	11	51	
1981	36	10	54	
1982	34	14	52	
1983	33	19	48	
1984	32	17	51	
1985	39	14	47	
1986	42	22	36	
1987	42	25	33	
1988	29	46	25	
1989	27	56	17	
1990	21	56	23	
1991	21	58	21	
1992	10	58	32	
1993	8	68	9	15*
1994	5	57	6	32
1995	5	17	16	62
1996	20	8	20	52
1997	12	8	7	73
1998	17	14	4	65

*Monitoring of South America began in July 1993

Source: DEA

Percentage of Adult Males Testing Positive for Specific Drugs at Time of Arrest in 1999

CITY	Cocaine	Marijuana	Opiates	Meth	PCP
Albuquerque	42.5	36.9	13.6	5.1	0.0
Anchorage	25.6	37.5	3.0	0.5	0.0
Atlanta	51.3	44.4	4.3	0.4	0.1
Birmingham	36.9	39.3	3.8	0.1	0.1
Chicago	41.7	44.6	20.1	0.0	3.5
Cleveland	40.3	43.3	4.3	0.0	10.0
Dallas	34.3	39.2	4.5	2.5	5.4
Denver	40.6	43.7	3.4	3.0	0.0
Des Moines	15.6	43.4	1.3	14.0	2.3
Detroit	27.0	47.9	8.6	0.0	0.1
Ft. Lauderdale	41.0	39.3	1.4	0.4	0.0
Houston	35.7	38.2	6.2	0.1	6.5
Indianapolis	33.7	48.0	2.5	0.6	1.5
Laredo, TX	41.9	32.7	11.3	0.2	0.0
Las Vegas	30.3	28.0	4.6	16.2	2.5
Los Angeles	35.6	32.3	5.5	8.9	1.8
Miami	49.2	36.2	3.4	0.0	0.1
Minneapolis	29.3	44.1	3.7	1.1	0.5

New Orleans	43.8	39.6	13.5	0.1	0.0
New York City	44.2	40.8	15.2	0.0	0.9
Oklahoma City	25.5	47.9	1.6	8.7	4.2
Omaha	21.6	51.2	0.4	7.8	0.0
Philadelphia	39.3	41.2	14.8	0.2	5.8
Phoenix	31.6	36.2	7.6	16.6	1.7
Portland, OR	22.7	34.5	12.9	19.8	0.0
Sacramento	15.8	44.0	4.4	27.6	0.1
Salt Lake City	21.7	34.6	8.9	24.8	0.1
San Antonio	22.5	35.6	9.6	1.8	0.1
San Diego	16.5	36.3	9.0	26.0	0.0
San Jose	13.7	34.3	4.0	24.4	1.4
Seattle	33.4	39.0	13.9	9.0	1.5
Spokane	17.6	43.5	7.1	20.1	1.6
Tucson	39.9	45.1	8.6	5.8	0.0
Washington, DC	37.7	34.9	16.0	0.9	5.7
City Average	**32.4**	**39.9**	**7.4**	**7.3**	**1.7**

Source: Arrestee Drug Abuse Monitoring Program

Percentage of Adult Males Testing Positive for Any Drug at Time of Arrest

CITY	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Albuquerque	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	64.8	63.9
Anchorage	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	42.5	53.8
Atlanta	62.0	63.0	69.0	72.0	69.0	74.0	80.0	71.6	65.7	76.7
Birmingham	64.0	63.0	64.0	68.0	69.0	73.0	70.0	67.4	67.1	63.8
Chicago	73.0	74.0	69.0	81.0	79.0	79.0	82.0	80.3	74.2	74.4
Cleveland	55.0	56.0	64.0	64.0	66.0	65.0	67.0	64.0	65.2	71
Dallas	56.0	56.0	59.0	62.0	57.0	60.0	63.0	63.4	63.4	60.5
Denver	48.0	50.0	60.0	64.0	67.0	66.0	71.0	71.1	68.8	66.8
Des Moines	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	57.1	56
Detroit	51.0	55.0	58.0	63.0	66.0	67.0	66.0	61.5	68.2	65.3
Ft. Lauderdale	60.0	61.0	64.0	61.0	58.0	58.0	67.0	73.0	74.4	63.8
Houston	64.0	65.0	59.0	59.0	48.0	58.0	64.0	62.8	59.9	59.5
Indianapolis	46.0	45.0	52.0	60.0	69.0	64.0	74.0	62.6	66.8	64.1
Laredo, TX	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	57.3	58.3
Las Vegas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	56.8	59.6
Los Angeles	65.0	62.0	67.0	66.0	66.0	62.0	64.0	58.7	64.4	62.4
Miami	N/A	68.0	68.0	70.0	66.0	57.0	67.0	60.6	61.5	66
Minneapolis	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	63.2	60.4
New Orleans	61.0	59.0	60.0	62.0	63.0	66.0	67.0	66.8	67.3	59.2

New York City	76.0	73.0	77.0	78.0	82.0	83.0	78.0	78.6	76.9	74.7
Oklahoma City	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	69.0	64.2
Omaha	30.0	36.0	48.0	54.0	59.0	54.0	63.0	62.3	60.4	61.5
Philadelphia	76.0	74.0	78.0	76.0	76.0	76.0	69.0	66.9	78.7	69.8
Phoenix	54.0	42.0	47.0	62.0	65.0	63.0	59.0	64.0	62.7	64.4
Portland, OR	62.0	61.0	60.0	63.0	65.0	65.0	66.0	71.4	71.5	63.8
Sacramento	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	70.8	68.3
St. Louis	54.0	59.0	64.0	68.0	74.0	77.0	75.0	74.1	71.7	N/A
Salt Lake City	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	60.2	60.3
San Antonio	51.0	49.0	54.0	55.0	52.0	51.0	57.0	52.4	56.0	49.5
San Diego	78.0	75.0	77.0	78.0	79.0	72.0	71.0	73.4	68.6	63.8
San Jose	55.0	58.0	50.0	54.0	55.0	52.0	48.0	51.4	48.2	55.4
Seattle	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	65.4	65.9
Spokane	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	62.3	62.1
Tucson	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	63.1	68
Washington, DC	56.0	59.0	60.0	60.0	64.0	64.0	66.0	68.6	65.3	68.9
City Average	**59.0**	**59.3**	**62.1**	**65.2**	**65.8**	**65.5**	**67.6**	**66.4**	**64.6**	**64**

Source: Arrestee Drug Monitoring Program (ADAM), 1999

DEA Domestic Analyzed Drug Removals
(kilograms)

Drug	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Heroin	638.6	1,154.0	695.6	727.2	480.0	731.2	509.4	342.3	370.7	396.9	534.9
Cocaine	73,728.5	59,720.6	78,759.9	60,624.1	66,798.7	52,283.7	36,800.2	39,004.2	32,454.8	38,339.9	50,611.8
Cannabis	148,647.2	108,206.8	204,207.1	142,638.2	153,175.0	231,816.7	202,784.9	231,736.6	242,475.3	332,131.5	338,297.3
Meth-amphetamine	751.5	294.0	357.8	499.5	709.1	960.5	644.2	1,050.7	1,228.1	1,408.4	2,232.1

This information represents drug removals that were analyzed in a DEA laboratory and is the net weight after analysis. (Source: DEA)

DEA Domestic Non-Analyzed Drug Removals
(kilograms)

Drug	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Heroin	15.8	45.9	108.8	73.3	91.9	47.0	102.0	103.2	266.3	255.6	203.7
Cocaine	36,662.3	30,455.3	31,445.2	25,055.3	26,912.0	16,056.8	18,594.0	18,602.2	38,943.0	46,420.1	29,839.6
Cannabis	34,199.9	113,231.7	107,402.9	109,328.1	93,943.0	88,359.9	76,443.5	128,858.6	138,551.1	236,140.8	290,326.3
Meth-amphetamine	221.5	265.7	70.2	104.7	223.4	545.6	246.1	456.9	1,084.6	878.0	745.5

This information represents drug removals that were for information purposes only. They were not analyzed in a DEA laboratory and display the gross weight of the drug seized, including packaging. The user is cautioned not to add analyzed and non-analyzed drug removals together. (Source: DEA)

Operation Pipeline/Convoy

Highway Interdiction Seizures
(National totals; kilograms)

YEAR	Marijuana	Cocaine	Crack	Heroin	Meth	U.S. $ (in Millions)
1986	12,041	3,473	0	4	0	14
1987	24,359	2,737	17	11	20	19
1988	35,836	4,095	18	11	65	28
1989	31,423	5,339	39	13	61	33
1990	22,970	3,827	22	7	18	24
1991	32,429	6,890	38	6	13	24
1992	62,608	11,455	46	11	43	45
1993	72,795	10,844	79	19	46	41
1994	92,541	23,925	109	12	170	43
1995	108,612	10,666	108	36	310	38
1996	120,000	10,415	102	77	449	52
1997	136,258	7,665	90	87	1,100	63
1998	122,741	15,502	80	77	982	86
1999	210,040	17,880	37	62	796	82
Total	1,084,653	134,712	785	433	4,073	$592 million

Source: DEA

[Plaintiffs' Exh. 43]

Case Information Summary

Ayahuasca/Dimethyltryptamine

Table 1. Summary of total seizures and injuries related to ayahuasca or dimethyltryptamine in the United States by DEA, other federal agencies and some state/local law enforcement agencies.

Date Sources	1995	1996	1997	1998	1999	2000	6 Mo 2001	TOTAL
STRIDE① Investigations	2	2	0	1	6	2	1	14
NFLIS② Investigation	NA	NA	NA	0	1	2	0	3
DAWN③ ED Episodes	No reports of ayahuasca, or dimethyltryptamine							
DAWN ME Deaths	No reports of ayahuasca, or dimethyltryptamine							

① STRIDE – System to Retrieve Information from Drug Evidence, data collection system maintained by the Drug Enforcement Administration (DEA) which records the results of analysis conducted by DEA forensic laboratories on drug evidence.

② NFLIS – National Forensic Laboratory Information System, data collection system being developed by the DEA which records the results of drug analysis conducted by state and local forensic laboratories. (40 laboratories in 15 states currently submit data)

③ DAWN – Drug Abuse Warning Network – data collection system maintained by the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. ED = Hospital Emergency Departments, ME = Medical Examiners.

Table 2. Detail of Case Information from STRIDE

Investigations	Exhibits	Seized Amount	Potency (concentration of DMT)
14	33	211,700 milliliters	0.18-1.1 mg/ml
		1338 grams	79-81%

Plaintiffs' Exhibit
Number 43

Peyote/Mescaline

Table 3. Total seizures related to Peyote and Mescaline in the United States by DEA, other federal agencies and some state/local law enforcement agencies.

Source of Data	Drug	1995	1996	1997	1998	1999	2000	2001	TOTAL
STRIDE①	Mescaline	1	2	3	0	3	4	1	15
	Peyote	2	0	0	4	0	0	1	9
NFLIS②	Mescaline	NA	NA	NA	1	5	15	NA	21
	Peyote	NA	NA	NA	2	9	6	NA	19
DAWN③ ED Episodes	Mescaline	32	38	38	28	48.	NA	NA	184
	Peyote	5	2	6	1	5	NA	NA	19
DAWN ME Deaths	Mescaline	1	1	1	0	NA	NA	NA	3

① STRIDE – System to Retrieve Information from Drug Evidence, data collection system maintained by the Drug Enforcement Administration (DEA) which records the results of analysis conducted by DEA forensic laboratories on drug evidence.

② NFLIS – National Forensic Laboratory Information System, data collection system being developed by the DEA which records the results of drug analysis conducted by state and local forensic laboratories. (40 laboratories in 15 states currently submit data)

③ DAWN – Drug Abuse Warning Network – data collection system maintained by the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. ED = Hospital Emergency Departments, ME = Medical Examiners.

Table 4. Summary of the Case Information from STRIDE for the period 1995 to 2001.

Peyote			
Investigations	**Exhibits**	**Seized Amount**	**Potency (conc. of mescaline)**
7	14	30,384 grams	N/A
Mescaline			
Investigations	**Exhibits**	**Seized Amount**	**Potency**
15	35	35,148 grams	33-99%
		33 capsule	9-97mg/cap
		135 milliliters	33 mg/ml

Table 5. Summary of the Cases Information from NFLIS for the period 1998 to 2001.

Peyote	
Exhibits	**Seized Amount**
17	8,482 grams
Mescaline	
Exhibits	**Seized Amount**
21	1,640 grams

398

[Plaintiffs' Exh. 67]

U.S. Department of Justice
Drug Enforcement Administration

Washington, D.C. 20537

Dec 02 1998

Eddie Watts, Jr.
King/High Priest and Founder
Nation of the Living God
521 W. 93rd Street
Los Angeles, California 90044

Dear Mr. Watts:

This is in response to your letters dated November 1, 1997, and July 15, 1998. On behalf of the Nation of the Living God, you petition the Administrator, pursuant to § 553(e) of the Administrative Procedure Act, to initiate rulemaking proceedings pursuant to 21 U.S.C. § 822(d) to adopt a regulation permitting the use of marijuana for religious purposes. You have also requested a hearing on this matter.

You have requested the adoption of the following rule:

> The listing of marijuana as a controlled substance in Schedule I does not apply to the nondrug use of marijuana in bona fide religious ceremonies of the Nation of the Living God, and members of the Nation of the Living God so using marijuana are exempt from registration. Any person who manufactures marijuana for or distributes marijuana to

the Nation of the Living God, however, is required to obtain registration annually and comply with all other requirements of law.

The rule you request is patterned after the exemption granted to the Native American Church for use of peyote in bona fide religious ceremonies. 21 C.F.R. § 1307.31. You indicate in your letters that members of the Nation of the Living God use marijuana for "spiritual enrichment and edification" in bona fide religious ceremonies, and that the intended use is to affect the spirit of man. In support of your request, you refer to the U.S. Constitution and the "right to religious freedom, privacy, and equal protection of the law" and the legislation to control illicit trafficking and regulate legitimate users of psychotropic substances in the United States. You conclude that you are entitled by law to an exception and exemption from the Controlled Substances Act (CSA) pursuant to 21 U.S.C. § 822(d). I have considered the evidence and, for the reasons set forth below, deny your request.

Assuming for purposes of this petition that the Drug Enforcement Administration (DEA) has the authority to promulgate the rule that you have proposed, I have considered your claims for an exemption based on freedom of religion and equal protection. With regard to your religious freedom claim, I note that the exercise of religion is protected both by the Constitution and by federal statute. The Free Exercise Clause of the First Amendment guarantees that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." U.S. Const. amend. I. Congress created additional federal protection with its 1993 enactment of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb. The statute

applies when the government attempts to impose substantial burdens on a person's exercise of religion. In these circumstances, the person claiming the protection of the statute must first establish, by a preponderance of the evidence, that the governmental action substantially burdens a sincerely held religious belief (rather than a philosophy or way of life). The government must then demonstrate that application of the burden is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that interest.

Assuming – without deciding – that the Nation of the Living God is a bona fide religion and that the application of the marijuana laws constitutes a substantial burden on its members' exercise of religion, I find that the granting of an exemption for religious purposes is not warranted under the Constitution or statute. DEA previously addressed the issue of a religious use exemption from federal laws governing marijuana use in a petition filed by Carl Eric Olsen. DEA denied Mr. Olsen's petition in a final order issued July 26, 1988. That final order was affirmed by the United States Court of Appeals for the District of Columbia Circuit in an opinion issued by then-Circuit Judge Ruth B. Ginsburg in *Olsen* v. *DEA*, 878 F.2d 1458 (D.C. Cir. 1989). Your petition presents no facts or circumstances that warrant a departure from *Olsen*.

As Judge Ginsburg emphasized in *Olsen* in 1989, it remains the case today that marijuana constitutes a health hazard and a threat to social welfare, and the government has a compelling interest in controlling its use. This finding has been universally accepted by the federal courts. "Every federal court that has considered the matter, so far as we are aware, has accepted

the congressional determination that marijuana in fact poses a real threat to individual health and social welfare. . . ." *United States* v. *Rush*, 738 F.2d 497, 512 (1st Cir. 1984), *cert. denied*, 470 U.S. 1004 (1985). The *Rush* court declined "to second-guess the unanimous precedent establishing an overriding governmental interest in regulating marijuana." *Id.* at 512-13.

Marijuana has been classified in Schedule I, the highest level of control, based on its high potential for abuse, lack of accepted medical use, and lack of accepted safety. The illicit trafficking and abuse of marijuana is a problem of immense and growing proportions in the United States. For example, in 1997 alone, federal agencies seized nearly 1,520,000 pounds of marijuana within the jurisdiction of the United States. This represents an increase from 1,384,000 pounds in 1995 and 1,408,000 pounds in 1996. Given the large amounts of marijuana available in the United States, it would be extremely difficult if not impossible for the DEA to attempt to monitor compliance with any exemption granted for religious use. In light of the magnitude of the marijuana control problem, applying the marijuana laws to the Nation of the Living God is the least restrictive means available to the government to prevent the illicit distribution of marijuana.

In addition to your first amendment establishment clause claim, you also claim that as a matter of equal protection, the Nation of the Living God is entitled to the same exemption granted to the Native American Church. As Judge Ginsburg stated in *Olsen*, "in cases of this character, establishment clause and equal protection analyses converge." 878 F.2d at 1463. The marked distinction between the immensity of the marijuana control problem and the relatively smaller

problem of peyote control explains why "a tightly-cabined exemption for peyote use in a religious rite need not mean that religious use of marijuana (or any other widely used controlled substance) must be accommodated." *Id.* While peyote and marijuana are both controlled substances in Schedule I wi[illegible] a high potential for abuse, there is a vast difference in the demand for these two drugs in the United States. The actual abuse and availability of marijuana in the United States is much more widespread than that of peyote. During fiscal years 1995-97, DEA seized 621,288,700 grams of marijuana and only 226 grams of peyote–over 2,749,000 times more marijuana than peyote. As Judge Ginsburg indicated in *Olsen*, "the vast difference in demand for marijuana on the one hand and peyote on the other"—by itself—warrants denial of your petition. *See* 878 F.2d at 1463-64.

Moreover, a meaningful distinction exists between the use of peyote in religious practices of the Native American Church and the use of marijuana proposed by the Nation of the Living God. For example, in the Native American Church, the use of peyote is limited to specific, ritualized ceremonial occasions. Peyote is worshiped as a deity, and it is essential to the existence of the religion. In contrast, members of the Nation of the Living God use marijuana every day, with the ceremony on the seventh day lasting from sunrise to bedtime. Marijuana is apparently not considered as a deity on its own, but is used as an aid in achieving spiritual enrichment and edification. *See id.* at 1464. These differences compel a finding that the members of the two churches are not similarly situated for equal protection purposes.

Bases on the information contained in your petition, the applicable statute and legal precedents, and for the reasons outlined, your petition on behalf of the Nation of the Living God for an exemption to the Controlled Substances Act permitting use of marijuana for religious purposes is hereby denied. Accordingly, your request for a rehearing on the matter is also denied.

Sincerely,

S/N DR Marshall
Donnie R. Marshall
Acting Deputy Administrator

[Plaintiffs' Exh. 69]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

CRIMINAL NO. C2 84-51

UNITED STATES OF AMERICA, PLAINTIFF

vs.

JOHN D. WARNER AND FRANCES WARNER,
DEFENDANTS

TESTIMONY OF OMER C. STEWART

Submitted: October 24, 1984
[Filed: July 15, 1987]

U.S. District Courthouse
Grand Forks, North Dakota

BEFORE: CHIEF JUDGE PAUL BENSON

* * * * *

[51]

someone who believes that peyote is useful and good as a good medicine. For my PhD thesis I had to arbitrarily, say, find another kind of determination. Two, attending more than two rituals was necessary to become a member. Now I don't know how these other determinations are, if someone says they really believe, it's

great stuff and they count those as members. That I wouldn't count those as members.

Q. What does it take in your experience, training and background and research for one to be considered a member of the Native American Church?

A. They have to attend more than two rituals. That's really the minimum, two, up to two they can go just for trial, for just to see how it is. Peyote is not a pleasant tasting material, it's difficult to consume and if you drink, if you eat very much, when you take it as tea or as a paste, it frequently causes vomiting and is unpleasant and it keeps you awake all night, and to have anything that may be thought of as an unusual vision you have to eat quite a bit. So that the very process of participating in a peyote service which lasts, oh, ten to 12 hours, and then you can't sleep and you have some often very violent pains in your stomach and so on, but people who really believe will say, well, suffering a little bit for your religion is not bad, you have to suffer. You should suffer a little bit for the truth, for the true religion. And they see that difficulty of consuming or even * * *.

* * * * *

[60]

to this case. Jack Warner and his, is caucasian, Fran Warner has been testified as caucasian or Mexican American, been testified to both ways, and they claim to be members of the Native American Church. You have a membership card in the Native American Church. Are you familiar with other people, are you aware, in your studies, that are not Indian blood that have been considered under your standards or other

people's standards as members of the Native American Church?

A. Yes. I know many.

Q. And could you tell the jury about some of those people that you're aware of that are members of the Native American Church that are not Indians?

A. Yes. Types or branches of the peyote religion differ in its—I happen to have some notes from one such unusual subdivision of the Native American Church that has as its, on the letterheard "Native American Church of the Grass Mounta in Local Community of the Rosebud Sioux Reservation, Title A 2315, certificate of amendment number 3857, president, spiritual leader"—

MR. FISHER: Judge, I object to him reading from a document not in evidence.

MR. GOLDEN: I agree.

THE COURT: The objection is sustained.

Q. Doctor Stewart, what I'd like you to do is tell me your conclusions from—do you need that to refresh your [61] recollection, in other words?

A. The title I had to read because I didn't know it.

Q. Well, okay. Do you have a recollection of the presence of white people in the Native American Church without being able to review that document?

A. Yes. Leonard Crow Dog brought white members of his congregation with him to, to Washington to meet that, to a meeting that I attended and I have talked—

Q. When was that?

A. About three years ago.

Q. And there were white members and they attended a peyote meeting?

A. Yes.

Q. And the issue is membership in the case. Did it appear to you that they were members?

A. They were part of his group, his following that he had. They may have been in-laws, may have been married to his son or his daughter or so on.

Q. In your opinion and based on your views they appeared to be caucasian?

A. Yes. And I have met since then a couple who the girl last year was working on the Ute reservation in child development program who was a close friend of Leonard Crow Dog and considered herself a member of his congregation and received a grant to go back and study with Leonard Crow Dog, [62] his extension of the restoration of the ghost dance.

Q. What about other caucasian people who aren't scientists, aren't like yourself, involved in the studying and documenting the Native American Church or indian culture?

A. One sees them often. At Taos, there was a girl from New York married to a peyote leader at Taos. Another peyote leader would not allow her to attend his peyote meeting that I was invited for and when Tellus Ramero introduced me he said, "I don't allow whites in this meeting," and he kept his, a wife of his friend of his out but said, "tonight Omer's an Indian," so that, but this girl went to other peyote meetings that were carried on by other roadmen in other places than in the tepee of Tellus Ramero.

Q. There are some other people that you can tell us about?

A. Yes. I happen to have the business card of Steven Shelton who delivers special fire wood to me in Boulder from southern Colorado each year and we talk about his membership with the Ute members, Ute members with Ute Peyote Church that I know of and at the meeting that I attended with Tellus Ramero, the Ute brought a white friend with them that Tellus wouldn't allow in his meeting but, who is with this group and goes to the Native American Church meeting in Ignocio with Mr. Shelton and the Ute peyotist, peyote group there.

Q. Do you know of groups which have a high proportion of non-Indians that practice the Native American religion?

[63]

A. There is an incorporated group in Santa Fe incorporated under the laws of New Mexico that most of them are non-Indians, many. One is married to an Arapaho and they obtain their peyote by means of this Arapaho in-law. They have been taught the ritual when Emerson Decora, the president of the Native American Church of North America was alive, he periodically had his way paid out to Santa Fe to direct meetings and some members of the congregation from Taos periodically run meetings for this group of white, white people.

Q. Does that group exist now?

A. Yes, it exists now. It existed as a legal group for about 15 years.

Q. And are there other examples that you have heard through your research and through information

that's comes to you that you can't give such explicit detail about?

A. There are several who have attempted to become legal and failed, but other than that it, the individuals who have become sufficiently acquainted with this to be consider, consider themselves members. One, of course, was a colleague named James Howard, a professor of anthropology who taught at North Dakota University and then went to the University of Oklahoma State and I thought he would be, consider himself, as I consider myself, recognized or an allowed member, but that I'm also a social scientist. He said no, he's just a [64] member and he objected to my characterization of him. Unfortunately Jim Howard died a year ago and so is not now active. The only other active member that I know in exactly the same category is George Morgan who was the secretary of the Wounded Knee branch of the Native American Church when I first met him in 1972, and I see him often enough since then, that he continues to be and consider himself a devote peyote member, Peyotist.

Q. The fact that you—I'll rephrase that. So many other people who just don't ever come to your attention?

A. I have been—I expect almost every place that I go to a new community when there are, when there is an Indian congregation to find some white person who has joined the congregation. It's very common.

Q. And are you familiar with historically the involvement and membership of the caucasian in Native American Church?

A. Yes. I have records and documents that show that, say, in 1896 Farmer reported that John Wilson

who was the inventor of the Cross Fire branch of the Native American Church was running meetings in the cattle country of Oklahoma and he said there were white men and blacks and Mexicans and all attending the meetings, there were Indians. So I have record of that early—Quanah Parker himself, the famous chief of the, of the Comanche, had two white secretaries, Mr. Simons and Richard West and Simons reported his conversion and his [66] church until he died in 1958.

Q. And he was a white man, wasn't he?

A. He was a white man. Jewish ancestry. Wrote his PhD thesis on the difficulty of interreligious marriages in Chicago.

Q. So has Native American Church in your experience and from your study always accepted converts?

A. Yes. Any person who indicated seriousness and would be proper, be welcome. I have met dozens of people who are, been maybe only once did they ask for permission to go. And to the Ute reservation, the one couple who had been traders in the vicinity with lavish in their feeling of their spiritual and the feeling of good fellowship and the feeling of understanding and acceptance and belonging, something they had never experienced in their life.

Q. You have heard some testimony about the situation of Jack and Fran Warner here from some of the other witnesses, haven't you?

A. Yes.

Q. Based on that information that you have heard and based on the fact that they, there has been testimony that they practiced the peyote religion now for approximately eight years and based on the fact

that they have been affiliated with a group, the Tokio group of the Native American Church in North Dakota, do you have an opinion as a * * *.

* * * * *

[Plaintiffs' Exh. 74]

CORPORATE ACCESS NUMBER: 537945610

ALBERTA

BUSINESS CORPORATIONS ACT

CERTIFICATE OF REGISTRATION

NATIVE AMERICAN CHURCH OF
MASKWACHEES
WAS REGISTERED AS AN EXTRA-PROVINCIAL
CORPORATION IN ALBERTA
ON 1998/07/28.

[Registrar of Corporations
Symbol Omitted]

CORPORATIONS BYLAW
MODEL BY-LAW

CORPORATE SEAL

1. The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the corporation.

CONDITIONS OF MEMBERSHIP

2. Membership in the corporation shall be limited to persons interested in furthering the objects of the corporation and shall consist of anyone whose application for admission as a member has received the approval of the board of directors of the corporation.
3. There shall be no membership fees or dues unless otherwise directed by the board of directors.
4. Any member may withdraw from the corporation by delivering to the corporation a written resignation and lodging a copy of the same with the secretary of the corporation.
5. Any member may be required to resign by a vote of three-quarters (3/4) of the members at an annual meeting provided that any such members shall be granted an opportunity to be heard such meeting.

HEAD OFFICE

6. Until changes in accordance with the act, the Head Office of the corporation shall be in the (City-Municipality) of Hobbema, Alberta.

BOARD OF DIRECTORS

7. The property and business of the corporation shall be managed by a board of directors consisting of a minimum of three and a maximum of ten directors a majority of whom shall constitute a quorum. Directors must be individuals, 18 years of age, with power under law to contract. Directors need not be members.
8. The applicants for incorporation shall become the first directors of the corporation whose term of office on the board of directors shall continue until their successors are elected.
9. At the third annual meeting of members, the board of directors then elected shall replace the provisional directors named in the Letters Patent of the corporation;
10. Directors shall be elected for a term of three years(s) by the members at an annual meeting of members.
11. The office of director shall be automatically vacated:
    a) if a director shall resign his office by delivering a written resignation to the secretary of the corporation;
    b) if he is found by a court to be of unsound mind;
    c) if he becomes bankrupt or suspends payment or compounds with his creditors;
    d) if at a special general meeting of members a resolution is passed by at least two thirds of

the members present at the meeting that he be removed from office;

e) on death;

provided that if any vacancy shall occur for any reason in this paragraph contained, the board of directors by majority vote, may, by appointment, fill the vacancy with a member of the corporation.

12. Meetings of the board of directors may be held at any time and place to be determined by the directors provided that 48 hours written notice of such meeting shall be given, other than by mail, to each director. Notice by mail shall be sent at least 14 days prior to the meeting. There shall be at least one (1) meeting per year of the board of directors. No error or omission in giving notice of any meeting of the board of directors or any adjourned meeting of the board of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. Each director is authorized to exercise one (1) vote.

If all the directors of the Corporation consent thereto generally or in the respect of a particular meeting, a director may participate in a meeting of the board or of a committee of the board by means of such conference telephone or other communications facilities as permit all persons participating in the meeting to hear each other, and a director participating in such a meeting by such means is deemed to be present at the meeting.

A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors.

13. The directors shall serve as such without remuneration and no director shall directly or indirectly receive any profit from his position as such; provided that a director may be paid reasonable expenses incurred by him in the performance of his duties. Nothing herein contained shall be construed to preclude any director from serving the corporation as an officer or in any other capacity and receiving compensation therefor.

14. A retiring director shall remain in office until the dissolution or adjournment of the meeting at which his retirement is accepted and his successor is elected.

15. The board of directors may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board of directors at the time of such appointment.

16. A reasonable remuneration for all officers, agents and employees and committee members shall be fixed by the board of directors by resolution. Such resolution shall have force and effect only until the next meeting of members when such resolution shall be confirmed by resolution of the members, or in the absence of such confirmation by the member, then the remuneration to such officers, agents or employees and committee members shall

cease to be payable from the date of such meeting of members.

INDEMNITIES TO DIRECTORS AND OTHERS

17. Every director or officer of the corporation or other person who has undertaken or is about to undertake any liability on behalf of the corporation or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the corporation, from and against;

a) all costs, charges and expenses which such director, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office or in respect of any such liability;

b) all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

EXECUTIVE COMMITTEE

18. There shall be an executive committee composed of three directors who shall be appointed by the board of directors. The executive committee shall exercise such powers as are authorized by the board of directors. Any executive committee member may be removed by a majority vote of the

board of directors. Executive committee members shall receive no remuneration for serving as such, but are entitled to reasonable expenses incurred in the exercise of their duty.

19. Meetings of the executive committee shall be held at any time and place to be determined by the members of such committee provided that forty-eight (48) hours written notice of such meeting shall be given, other than by mail, to each member of such committee. Notice by mail shall be sent at least 14 days prior to the meeting. Three members of such committee shall constitute a quorum. No error or omission in giving notice of any meeting of the executive committee of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any member of such committee may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

POWERS OF DIRECTORS

20. The directors of the corporation may administer the affairs of the corporation in all things and make or cause to be made for the corporation, in its name, any kind of contract which the corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the corporation is by its charter or otherwise authorized to exercise and do.

21. The directors shall have power to authorize expenditures on behalf of the corporation from time to time and may delegate by resolution to an

officer or officers of the corporation the right to employ and pay salaries to employees. The directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the corporation in accordance with such terms as the board of directors may prescribe.

22. The board of directors shall take such steps as they may deem requisite to enable the corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments, and donations of any kind whatsoever for the purpose of furthering the objects of the corporation.

OFFICERS

23. The officers of the corporation shall be a president, vice- president, secretary and treasurer and any such other officers as the board of directors may by-law determine. Any two offices may be held by the same person. Officers need not be directors, nor members.

24. The president shall be elected at an annual meeting of the members. Officers other than president of the corporation shall be appointed by resolution of the board of directors at the first meeting of the board of directors following the annual meeting of members in which the directors are elected.

25. The officers of the corporation shall hold office for Three year(s) from the date of appointment or election or until their successors are elected or appointed in their stead. Officers shall be subject

to removal by resolution of the board of directors at any time.

DUTIES OF OFFICERS

26. The president shall be the chief executive officer of the corporation. He shall preside at all meeting so the corporation and of the board of directors. He shall have the general and active management of the affairs of the corporation. He shall see that all orders and resolutions of the board of directors are carried into effect.

27. The vice-president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties as shall from time to time be imposed upon him by the board of directors.

28. The treasurer shall have the custody of the funds and securities of the corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the corporation in the books belonging to the corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the corporation in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the board of directors from time to time. He shall disburse the funds of the corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the president and directors at the regular meeting of the board of directors, or whenever they may require it, an accounting of all the

transactions and a statement of the financial position, of the corporation. He shall also perform such other duties as may from time to time be directed by the board of directors.

29. The secretary may be empowered by the board of directors, upon resolution of the board of directors, to carry on the affairs of the corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. He shall give or cause to be given notice of all meetings of the members and of the board of directors, and shall perform such other duties as may be prescribed by the board of directors or president, under whose supervision he shall be. He shall be custodian of the seal of the corporation, which he shall deliver only when authorized by a resolution of the board of directors to do so and to such person or persons as may be named in the resolution.

30. The duties of all other officers of the corporation shall be such as the terms of their engagement call for or the board of directors requires of them.

EXECUTION OF DOCUMENTS

31. Contracts, documents or any instruments in writing requiring the signature of the corporation, shall be signed by any two officers and all contracts, documents and instruments in writing so signed shall be binding upon the corporation without any further authorization or formality. The directors shall have power from time to time by resolution to appoint any officer or officers on

behalf of the corporation to sign specific contracts, documents and instruments in writing. The directors may give the corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the board of directors.

MEETINGS

32. The annual or any other general meeting of the members shall be held at the head office of the corporation or at any place in Canada as the board of directors may determine and on such day as the said directors shall appoint. The members may resolve that a particular meeting of members be held outside Canada.

33. At every annual meeting, in addition to any other business that may be transacted, the report of the directors, the financial statement and the report of the auditors shall be presented and auditors appointed for the ensuring year. The members may consider the transact any business either special or general at any meeting of the members. The board of directors shall call a special general meeting of members on written requisition of members carrying not less than 5% of the voting rights. The lesser of a majority of members or twenty-five members present in person at a meeting will constitute a quorum.

34. Fourteen (14) days' written notice shall be given to each voting member of any annual or special general meeting of members. Notice of any meeting where special business will be transacted should contain sufficient information to permit the member to form a reasoned judgment on the decision to be taken. Notice of each meeting of members must remind the member that the has the right to vote by proxy. Each voting member present at a meeting shall have the right to exercise one vote. A Member may, by means of a written proxy, appoint a proxy holder to attend and act at a specific meeting of members, in the manner and to the extent authorized by the proxy. A proxy holder must be a member of the corporation.

35. No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the members of the corporation shall invalidate such meeting or make void any proceedings taken thereat any member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For purpose of sending notice to any member, director or officer for any meeting or otherwise, the address of the member, director or officer shall be his last address recorded on the books on the corporation.

MINUTES OF BOARD OF DIRECTORS AND EXECUTIVE COMMITTEES

36. The minutes of the board of directors or the minutes of the executive committee shall not be available to the general membership of the corporation but shall be available to the board of directors, each of whom shall receive a copy of such minutes.

VOTING OF MEMBERS

37. At all meetings of members of the corporation every question shall be determined by a majority of votes unless otherwise specifically provided by statute or by these by-laws.

FINANCIAL YEAR

38. Unless otherwise ordered by the board of directors the fiscal year-end of the corporation shall be December 31.

39. The board of directors may appoint committees whose members will hold their offices at the will of the board of directors.

AMENDMENT OF BY-LAWS

40. The by-laws of the corporation not embodied in the letters patent may be repealed or amended by-law enacted by a majority of the directors at a meeting of the board of directors and sanctioned by an affirmative vote of at least two-thirds (2/3) of the members at a meeting duly called for the purpose of considering the said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the approval of the Minister of Consumer and Corporate Affairs has been obtained.

AUDITORS

41. The members shall at each annual meeting appoint an auditor to audit the accounts of the corporation

for report to the members at the next annual meeting. The auditor shall hold office until the next annual meeting provided that the directors may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the board of directors.

BOOKS AND RECORDS

42. The directors shall see that all necessary books and records of the corporation required by the by-laws of the corporation or by any applicable statute or law are regularly and properly kept.

RULES AND REGULATIONS

43. The board of directors may prescribe such rules and regulations not inconsistent with these by-laws relating to the management and operation of the corporation as they deem expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the members of the corporation when they shall be confirmed, and failing such confirmation at such annual meeting of members shall at and from time to time cease to have any force and effect.

INTERPRETATION

44. In these by-laws and in all other by-laws of the corporation hereafter passed unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include firms and corporations.

[Seal Omitted] [Candian Flag]

Industry Canada Industrie Canada
Canada Loisurles
Corporations Act corporations canadiennes

CANADA

LETTERS PATENT

WHEREAS an application has been filed to incorporate a corporation under the name

NATIVE AMERICAN CHURCH OF NEYAPSKAK

THEREFORE the Minister of Industry by virtue of the powers vested in him by the *Canada Corporations Act*, constitute the applicants and such persons as may hereafter become members in the corporation hereby created, a body corporate and politic in accordance with the provisions of the said Act. A copy of the said application is attached hereto and forms part hereof.

Date of Letters Patent - May 4, 1998

GIVEN under the seal of office of the Minister of Industry.

[signature]
for the Minister of Industry
Filed Number: 349018-1

[seal]

CORPORATIONS DIRECTORATE
MODEL BY-LAW

CORPORATE SEAL

1. The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the corporation.*

CONDITIONS OF MEMBERSHIP

2. Membership in the corporation shall be limited to persons interested in furthering the objects of the corporation and shall consist of anyone whose application for admission as a member has received the approval of the board of directors of the corporation.**
3. There shall be no membership fees or dues unless otherwise directed by the board of directors.
4. Any member may withdraw from the corporation by delivering to the corporation a written resignation and lodging a copy of the same with the secretary of the corporation.
5. Any member may be required to resign by a vote of three-quarters (3/4) of the members at an annual meeting.

HEAD OFFICE

6. Until changed in accordance with the Act, the Head Office of the corporation shall be in the

---

* Seal need not be imprinted until after incorporation

** If more than 1 class of members, specify which classes are voting

(City- Municipality) of Fort McMurray, Alberta.*** (Province)

BOARD OF DIRECTORS

7. The property and business of the corporation shall be managed by a board of 3 directors of whom 2 shall constitute a quorum. Directors must be individuals, 18 years of age, with power under law to contract. Directors need not be members.

8. The applicants for incorporation shall become the first directors of the corporation whose term of office on the board of directors shall continue until their successors are elected.

   At the 1st meeting of members, the board of directors then elected shall replace the provisional directors named in the Letters Patent of the corporation.

9. Directors shall be elected for a term of 2 year(s) by the members at an annual meeting of members.

10. The office of director shall be automatically vacated:

    a) if a director has resigned his office by delivering a written resignation to the secretary of the corporation;

    b) if he is found by a court to be of unsound mind;

*** please do not include a postal address here

**** a fixed number or a range e.g. 3-10, minimum to be no less than 3

***** no less than two directors

****** first, second, etc.

c) if he becomes bankrupt or suspends payment or compounds with his creditors;

d) if at a special general meeting of members, a resolution is passed by 51% of the members present at the meeting that he removed from office;

e) on death;

provided that if any vacancy shall occur for any reason in this paragraph contained, the board of directors by majority vote, may, by appointment, fill the vacancy with a member of the corporation.

11. Meetings of the board of directors may be held at any time and place to be determined by the directors provided that 48 hours written notice of such meeting shall be given, other than by mail, to reach director. Notice by mail shall be sent at least 14 days prior to the meeting. There shall be at least one (1) meeting per year of the board of directors. No error or omission in giving notice of any meeting of the board of directors or any adjourned meeting of the board of directors of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. Each director is authorized to exercise one (1) vote.

    If all the directors of the corporation consent thereto generally or in respect of a particular meeting, a director may participate in a meeting of the board or of a committee of the board by means of such conference telephone or other communications facilities as permit all persons participating in the meeting to hear each other, and a director

participating in such a meeting by such means is deemed to be present at the meeting.

A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors.

12. The directors shall serve as such without remuneration and no director shall directly or indirectly receive any profit from his position as such; provided that a director may be paid reasonable expenses incurred by him in the performance of his duties. Nothing herein contained shall be construed to preclude any director from serving the corporation as an officer or in any other capacity and receiving compensation therefor.

13. A retiring director shall remain in office until the dissolution or adjournment of the meeting at which his retirement is accepted and his successor is elected.

14. The board of directors may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board of directors at the time of such appointment.

15. A reasonable remuneration for all officers, agents and employees and committee members shall be fixed by the board of directors by resolution. Such resolution shall have force and effect only until the next meeting of members when such resolution shall be confirmed by resolution of the members, or in the absence of such confirmation by the

members, then the remuneration to such officers, agents or employees and committee members shall cease to be payable from the date of such meeting of members.

INDEMNITIES TO DIRECTORS AND OTHERS

16. Every director or officer of the corporation or other person who has undertaken or is about to undertake any liability on behalf of the corporation or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the corporation, from and against;

    a) all costs, charges and expenses which such director, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him, or in respect of any act, deed, matter of thing whatsoever, made, done or permitted by him, in or about the execution of the duties of this office or in respect fo any such liability;

    b) all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

EXECUTIVE COMMITTEE (OPTIONAL)

17. There shall be an executive committee composed of ____ directors who shall be appointed by the board of directors. The executive committee shall exercise such powers as are authorized by the

board of directors. Any executive committee member may be removed by a majority vote of the board of directors. Executive committee members shall receive no remuneration for serving such, but are entitled to reasonable expenses incurred in the exercise of their duty.

18. Meetings of the executive committee shall be held at any time and place to be determined by the members of such committee provided that forty-eight (48) hours written notice of such meeting shall be given, other than by mail, to each member of the committee. Notice by mail shall be sent at least 14 days prior to the meeting. _____ members of such committee shall constitute a quorum. No error or omission in giving notice of any meeting of the executive committee or any adjourned meeting of the executive committee of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any member of such committee may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

POWERS OF DIRECTORS

19. The directors of the corporation may administer the affairs of the corporation in all things and make or cause to be made for the corporation, in its name, any kind of contract which the corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the corporation is by its charter or otherwise authorized to exercise and do.

20. The directors shall have power to authorize expenditures on behalf of the corporation from time to time and may delegate by resolution to an officer or officers of the corporation the right to employ and pay salaries to employees. The directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the corporation in accordance with such terms as the board of directors may prescribe.

21. The board of directors shall take such steps as they may deem requisite to enable the corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the corporation.

OFFICERS

22. The officers of the corporation shall be a president, vice- president, secretary and treasurer and any such other officers as the board of directors may by by-law determine. Any two offices may be held by the same person. Officers need not be directors, nor members.

23. The president shall be elected at an annual meeting of members. Officers other than president of the corporation shall be appointed by resolution of the board of directors at the first meeting of the board of directors following an annual meeting of members.

24. The offices of the corporation shall hold office for 2 year(s) from the date of appointment or election or

until their successors are elected or appointed in their stead. Officers shall be subject to removal by resolution of the board of directors at any time.

DUTIES OF OFFICERS

25. The president shall be the chief executive officer of the corporation. He shall preside at all meetings of the corporation and of the board of directors. He shall have the general and active management of the affairs of the corporation. He shall see that all orders and resolutions of the board of directors are carried intc effect.

26. The vice-president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties as shall from time to time be imposed upon him by the board of directors.

27. The treasurer shall have the custody of the funds and securities of the corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the corporation in the books belonging to the corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the corporation in such chartered bank of trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the board of directors from time to time. He shall disburse the funds of the corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the president and directors at the regular meeting of the board of directors, or whenever they may require it, an accounting of all the transactions and a statement

of the financial position, of the corporation. He shall also perform such other duties as may from time to time be directed by the board of directors.

28. The secretary may be empowered by the board of directors, upon resolution of the board of directors, to carry out his affairs of the corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. He shall give or cause to be given notice of all meetings of the members and of the board of directors, and shall perform such other duties as may be prescribed by the board of directors or president, under whose supervision he shall be. He shall be custodian of the seal of the corporation, which he shall deliver only when authorized by a resolution of the board of directors to do so and to such person or persons as my be named in the resolution.

29. The duties of all other officers of the corporation shall be such as the terms of their engagement call for or the board of directors requires of them.

EXECUTION OF DOCUMENTS

30. Contracts, documents or any instruments in writing requiring the signature of the corporation, shall be signed by any two officers and all contracts, documents and instruments, in writing so signed shall be binding upon the corporation without any further authorization or formality. The directors shall have power from time to time by resolution to appoint an officer or officers on behalf of the corporation to sign specific contracts, documents and instruments in writing. The direc-

tors may give the corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the corporation. The seal of the corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the board of directors.

MEETINGS

31. The annual or any other general meeting of the members shall be held at the head office of the corporation or at any place in Canada as the board of directors may determine and on such day as the said directors shall appoint. The members may resolve that a particular meeting of members be held outside Canada.

32. At every annual meeting, in addition to any other business that may be transacted, the report of the directors, the financial statement and the report of the auditors shall be presented and auditors appointed for the ensuing year. The members may consider and transact any business either special or general at any meeting of the members. The board of directors or the president or vice-president shall have power to call, at any time, a general meeting of the members of the corporation. The board of directors shall call a special general meeting on written requisition of members carrying not less than 5% of the voting rights. *15* members present in person at a meeting will constitute a quorum.

33. Fourteen (14) days' written notice shall be given to each voting member of any annual or special general meeting of members. Notice of any meeting where special business will be transacted shall contain sufficient information to permit the member to form a reasoned judgement on the decision to be taken. Notice of each meeting of members must remind the member that he has the right to vote by proxy.

Each voting member present at a meeting shall have the right to exercise one vote. A member may, by means of a written proxy, appoint a proxyholder to attend and act at a specific meeting of members, in the manner and to the extent authorized by the proxy. A proxyholder must be a member of the corporation.

A resolution in writing, signed by all the members entitled to vote on that resolution at a meeting of members, is as valid as if it had been passed at a meeting of members.

34. No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the members of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any member may at any time waiver notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For purpose of sending notice to any member, director, or officer for any meeting or otherwise, the address of the member, director or officer shall be his last address recorded on the books of the corporation.

MINUTES OF BOARD OF DIRECTORS (AND EXECUTIVE COMMITTEE)

35. The minutes of the board of directors (or the minutes of the executive committee) shall not be available to the general membership of the corporation but shall be available to the board of directors, each of whom shall receive a copy of such minutes.

VOTING OF MEMBERS

36. At all meetings of members of the corporation, every question shall be determined by a majority of votes unless otherwise specifically provided by statute or by these by—laws.

FINANCIAL YEAR

37. Unless otherwise ordered by the board of directors, the fiscal year end of the corporation shall be 31-12 every year.

COMMITTEES

38. The board of directors may appoint committees whose members will hold their offices at the will of the board of directors. The directors shall determine the duties of such committees and may fix any remuneration to be paid.

AMENDMENT OF BY-LAWS

39. The by-laws of the corporation not embodied in the letters patent may be repealed or amended by by-law enacted by a majority of the directors at a meeting of the board of directors and sanctioned by an affirmative vote of at least two-thirds*(2/3) of the members at a meeting duly called for the

purpose of considering the said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the approval of the Minister of Industry has been obtained.

AUDITORS

40. The members shall, at each annual meeting, appoint an auditor to audit the accounts of the corporation for report to the members at the next annual meeting. The auditor shall hold office until the next annual meeting provided that the directors may fill any casual vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the board of directors.

BOOKS AND RECORDS

41. The directors shall see that all necessary books and records of the corporation required by the by-laws of the corporation or by any applicable statute or law are regularly and properly kept.

RULES AND REGULATIONS

42. The board of directors may prescribe such rules and regulations not inconsistent with these by-laws relating to the management and operation of the corporation as they deem expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the members of the corporation when they shall be confirmed, and failing such confirmation at such annual meeting of members, shall at and from that time cease to have any force and effect.

INTERPRETATION

43. In these by-laws and in all other by-laws of the corporation hereafter passed unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include firms and corporations.

[Plaintiffs' Exh. 76]

443

State of Wyoming

OFFICE OF THE

SECRETARY OF STATE

United States of America,
State of Wyoming } ss.

I, THYRA THOMSON, Secretary of State of the State of Wyoming, hereby certify that . . . NATIVE AMERICAN CHURCH OF WYOMING FOR ARAPAHOES AND OTHER TRIBES . . . a corporation organized under the laws of the state of Wyoming did on April 21, 1967, complete all filings required of a domestic corporation to qualify under the corporation laws of the state of Wyoming.

I FURTHER CERTIFY that this corporation has filed all annual reports and paid all annual license taxes to date and, accordingly, is in good standing in this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Wyoming. Done at Cheyenne, the Capital, this 3rd day of May A. D. 19 85

Thyra Thomson
Secretary of State

By Karla K Thompson

US.01117

Plaintiffs' Exhibit
Number 76

Amended By-Laws of the Native American Church of Wyoming for Arapahos and other Tribes, know by all present. In this calendar year 1978, that we, the officers and members of the Native American Church of Wyoming for Arapahos and other Tribes, State of Wyoming, having associated ourselves together to rewrite and amend the By-Laws under the state laws of Wyoming, and a charter having been issued by the proper authorities of this state, do hereby amend all other previously written articles of by-laws in the manner as follows:

NATIVE AMERICAN CHURCH OF WYOMING FOR ARAPAHOS AND OTHER TRIBES

CONSTITUTION AND BY-LAWS

1978

ARTICLE I - NAME

The name of this corporation shall be, NATIVE AMERICAN CHURCH OF WYOMING FOR ARAPAHOS AND OTHER TRIBES.

ARTICLE II - PURPOSE

The purpose for which this corporation is organized, are to foster and promote religious belief in Almighty God and the customs of several tribes of Indians in Wyoming in the worship of a Heavenly Father; to promote morality, sobriety, industry, charity, right living, to cultivate a spirit of self-respect, and Brotherly Love and union among the members of these tribes; with the right to secure property for the purpose of conducting business or services. We, as a people place explicit faith, hope, and belief in Almighty God and declare full confident, and everlasting faith in our church through which and by which we worship God. We further pledge ourselves to work for unity with the sacramental use of peyote and its religious use.

ARTICLE III - MEMBERSHIP

Any individual accepting peyote as a sacrament.

ARTICLE IV

The Native American Church of Wyoming for Arapahos and other Tribes, shall have no capital stock, but it is authorized to develop fund raising for the support of the church.

ARTICLE V

Be it known that the Native American Church of Wyoming for Arapahos and other Tribes, shall have

three (3) Board of Trustee's and shall be elected every four (4) years by the membership.

DUTIES AND FUNCTIONS

(A.) The Board of Trustee's shall:

SECTION 1. Confirm elected staff appointments.

SECTION 2. Act as an appeal board or grievance committee.

SECTION 3. In the area of its regularity responsibilities may enforce with in its limits of jurisdiction, policies, and regulations so long as they do not conflict with federal, state, local laws, and including state laws of Texas in regards to purchase or harvest of sacrament peyote.

ARTICLE VI OFFICERS

(A.) Officers shall be composed of the following:

President, Vice-President, Secretary, and Treasurer, elected by the members every two (2) years.

DUTIES AND FUNCTIONS

(B.) President:

SECTION 1. Shall preside over all meetings, executive and membership.

SECTION 2. Votes only in case of a tie, according to the application of the democratic process.

SECTION 3. Collects data pertaining to the Native American Church and will make this data available to members.

SECTION 4. May initiate a plan of action for the operation of the Native American Church in

regard to our sacrament peyote, judicial dignitaries of this state and State of Texas.

SECTION 5. May appoint fellow officers or members to represent the Native American Church.

(C.) Vice-President:

SECTION 1. Assumes duties of president in his absence.

(D.) Secretary:

SECTION 1. The Secretary shall be responsible for the minutes of all business meetings of this organization.

SECTION 2. The Secretary shall keep all matter relating to that office in such a manner that care and preservation are assured.

SECTION 3. The Secretary shall read minutes of previous meetings.

(E.) Treasurer:

SECTION 1. Makes financial reports at all business meetings.

SECTION 2. Receives all donations to the Native American Church of Wyoming for Arapahos and other Tribes, and when possible, records where funds came from.

SECTION 3. Shall keep records of all deposits and withdrawals of Native American Church of Wyoming for Arapahos and other Tribes funds if placed in a local bank.

ARTICLE VII - VACANCY OF OFFICE

SECTION 1. Every outgoing officer shall deposit church archives, all documents relating to his or her office.

SECTION 2. Should an Officer or Trustees, vacate his position, he will be required to submit a written resignation.

SECTION 3. As vacancies occur, they shall be filled by the method of nomination and voting of members at a duly called meeting.

ARTICLE VIII - MEETINGS

SECTION 1. An annual conference of the church shall be held at a place and date determined by the membership.

ARTICLE IX - METHOD OF AMENDING BY-LAWS

SECTION 1. These By-Laws may amended at any annual conference by two-thirds (2/3) of those voting.

ARTICLE X - PARLIAMENTARY AUTHORITY

The rules contained in the, Native American Church of Wyoming for Arapahos and other Tribes, By-Laws shall govern in all cases to which they are applicable.

Five great principles will apply:

(1.) ORDER: That is, there must be orderly procedure.
(2.) EQUALITY: That is, all members are equal before the rule of law.
(3.) JUSTICE: That is, "Justice for all."
(4.) Right of the minority to be heard on questions;
(5.) Right of the majority to rule the organization.

[Plaintiffs' Exh. 97]

MAR 4 1982

Reverend Immanuel Trujillo
Peyote Way Church of God
Box 7X Bonita Route
Willeux, Arizona 85643

Dear Reverend Trujillo:

The Drug Enforcement Administration has reviewed the correspondence which you directed to the United States Customs Service concerning the importation of peyote. Before I comment on these documents, let me point out to you that the domestic supply of peyote is adequate to satisfy the legitimate national need and, therefore, this agency is not allowing the importation of peyote by any firm or group.

As you are apparently aware, peyote is a Schedule I controlled substance under the Controlled Substances Act (CSA) of 1970 and its possession and use is limited to individuals who are either properly registered under the CSA or who are specifically exempt from such registration. Since it is obvious that the Peyote Way is not registered under the CSA, the only legal way in which its members may possess and use peyote is if your group is determined to be exempt from registration. The specific regulation which defines this exemption is found in Title 21, Code of Federal Regulations, Section 1307.31, which reads as follows:

> The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the

> Native American Church so using peyote are exempt from registration . . .

The issue of which groups are covered by this exemption has been reviewed by the Office of Legal Counsel, Department of Justice, at the request of the DEA's Office of Chief Counsel. The Office of Legal Counsel has advised that the DEA could utilize a two-part standard to determine whether a petitioner is legally qualified to use peyote. The standards are:

> "(1) require that the petitioner be a member of a *bona fide* peyote-using religion in which the actual use of peyote is central to established religious beliefs, practices, dogmas, or rituals; and (2) apply a rebuttable presumption that the exemption is not available, under the foregoing standard, unless the petitioner can allege and establish a significant history of religious use of peyote. Such a presumption is justifiable as an objective means of determining that the petitioner's beliefs are *bona fide* and religious."

Hence, it is incumbent on your organization, as an entity seeking to use peyote for religious purposes, to furnish the DEA substantial documentation to meet the standards quoted above in order to qualify as a *bona fide* peyote using religion. The material which you have already forwarded does not meet these standards and we will consider any further documentation that you desire to submit in the future for this purpose.

However, until such time as you are able to demonstrate that you qualify for this exemption, you and the members of your group are without legal authority to possess and use peyote.

Sincerely,

/s/ GENE R. HAISLIP
GENE R. HAISLIP, Director
Office of Compliance and
Regulatory Affairs

CR ____
CRC____
CRCI_____
CRCI: KRonald:mdc:633-1227:2/9/82

CRC SUBJECT
CRC CHRON
CRC CIRC
CRCI: Ken Ronald
CR CHRON

[Plaintiffs' Exh. 107]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

No. CV 00-1647 JP/RLP

O CENTRO ESPIRITA BENEFICIENTE
UNIAO DO VEGETAL, ET AL., PLAINTIFFS

vs.

JOHN ASHCROFT, ET AL., DEFENDANTS

DEPOSITION OF JEFFREY BRONFMAN
September 19, 2001
9:04 a.m.
201 Third Street, Northwest, Suite 900
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, this deposition was:

* * * * *

[110]

depression that they seemed to be dealing with indicated to me there may be some serious mental problems going on.

Q. Well, if all you knew was that the person had been diagnosed with depression—with clinical depression, would that be enough for you to consult a health professional?

A. Oh, absolutely. I didn't understand you were talking about a clinical diagnosis of depression.

Q. If a person told you they had high blood pressure?

A. I would probably inquire with one of the medical doctors if this condition is something that I should be concerned about in distributing the tea.

Q. Has that ever come up?

A. Not to my knowledge.

Q. If a person told you they had a slight arrhythmia or heart murmur—

A. This would be something that I would not necessarily consult a physician about. I would be inclined to ask them questions about how this affects them in their life. If they have chest pains, how frequently that is? If the condition when this happens is rare, and probably if on all other levels [111] they were—they weren't taking medications, but on all other levels I felt they were a good candidate for membership of the UDV, I would welcome them to a ceremony and give them a small amount of tea, see how they felt and how it affected them over time, and generally be very careful in the administration of the tea.

Q. What if a person had some kind of health problem in the past, but didn't have it currently, for example, clinical depression? "I was diagnosed with clinical depression. I was on medications. I stopped the medications. I feel fine." Would you consult a health professional in that situation?

A. Yes, I would.

Q. This question, how many—"What kind of health problems are you having that I should know about," you say you have been asking that pretty much since the beginning?

A. Again, my level of precision and attention has increased so that there are—I think I pay much more attention to that now, then I did when I first started, but to pinpoint at what point I started regularly asking that question, I don't remember. It is clearly part of my practice now.

Q. You did say earlier you had almost from the [112] beginning asked the question about whether or not they had any physical or health conditions they felt it might be important for you to know about. Is that still your answer?

A. Yes.

Q. How many times would you say you've, in connection with the screening of a prospective member, have you consulted a health professional because of the answer to that question?

A. That question?

Q. Yes.

A. Very few times.

Q. Can you give me any kind of estimate?

A. I honestly don't remember. Again, this is kind of like a matter of course within an informal screening and kind of evaluation, so if there was something that somebody said to me that caused me reason for concern, I might have called up, you know, Dr. Glacus, or one of the other doctors, "There is a person that wants to drink the tea. They have described this condition. Is there any reason for me to be concerned about this?"

Generally, unless there were conditions that involved using prescription drugs that were contraindicated, or there was a theoretical [113] possibility of

there being negative side effects when used along with the tea, my general experience was people would always say, "That's not a problem."

Q. And would you do so without consulting a health professional?

A. No. I mean along the way I would consult with health professionals, as I was new to this, and I would ask, you know, in this instance, but I wouldn't only consult with health professionals, I would consult with other Mestres. Because, again, this was a religious function that I was seeking to gain greater understanding of. This wasn't—the function of the medical and scientific department is to support the religious work of the Mestres in terms of the distribution of tea. Generally, there are not health conditions where drugs are not being used, where there are concerns about the tea as being in anyway harmful to the health of the people who receive it as a religious sacrament.

There are tribes that use preparations that are similar to what we use as a religious sacrament for the purposes of restoring health to people who are sick. There are some tribes where this is the primary medicine. We don't use it as a medicine. We use it as s religious sacrament. Other than the [114] recent theoretical concerns about the possible combination of the tea with other substances that are given commonly by medical doctors, the general understanding and experience over all of the years of the UDV is that the communion of the tea within the UDV is something of benefit to people's health. It is not harmful.

Q. Why do you ask about medical conditions if the only concern is with possible interactions with medications?

A. I think it is general background to understand the nature of the person, because often physical symptoms, or physical health problems could manifest in a person's life that could have a spiritual origin. It is part of the spiritual examination of the person's life that the questions about their physical health become relevant. That is what we are screening. We are screening a person's spiritual preparedness and disposition in order to receive the religious sacrament of the tea.

Q. So your questions about the state of their health, I'm trying to see if I have your answer right, and correct me if I'm wrong. The questions about the state of their health are directed more toward understanding their spiritual condition than [115] understanding their medical condition, is that a fair paraphrase of what you just told me?

A. From my point of view, as a Mestre who is screening and interviewing people, my focus is the spiritual health and preparedness and readiness and sincerity of somebody who is coming to receive the communion of the tea. I'm not doing a medical screening. I'm seeking information to make that evaluation.

If over the course of that evaluation there are issues that come to light that I feel I need to consult with the resource of the medical and scientific body that is there within the UDV, I do so. But as a Mestre, my authority in terms of making what is a spiritual decision in relation to the distribution of the religious sacrament of the tea is not dependent upon the approval of any medical doctor or medical authority.

Q. I do understand that. What I don't understand is why you would feel the need to consult with a heath professional about anything other than a medication

situation, if as you said—if there isn't a concern about health problems other than medicine interactions?

A. Just—I'm really trying to leave the door * * *.

* * * * *

[156]

the amount you give people, and all of these different factors, what are you basing the amount you are asking for on?

A. There is a range in terms of the individuals. The amount that would be used in a given session is pretty predictable. So that I would know, say, if we were going to have this many sessions over a three-month period, and I could expect between on average—I would have a general idea, for example, of how much tea usually gets drunk within a session in Santa Fe, and by knowing how many sessions were upcoming, in terms of over the next three to six months we are going to be having this many sessions, I could look at the amount of tea that we had and estimate when we would be needing more, and then ask for a preparo to be scheduled to have more tea made.

Q. Is hoasca given to children under the age of 18 at your sessions in the US?

A. Under certain circumstances, yes.

Q. What would those circumstances be?

A. Largely—there are two principal circumstances. The first is during baptism. The children within the UDV receive a small amount, like a drop of the tea at the time of their baptism. It [157] is part of the religious ritual. The other is during the years that we were distributing the tea in the United Sates, there was a large number of teenagers who had grown up in the

UDV and came to live with American families to study English and to go to school in the United States. They came with their parents' permission to be able to drink the tea, and also with the wish to continue the religious practice they had followed from the time they were young in Brazil.

Q. Have you ever given the tea to an American child under the age of 18, not in the context of a baptism?

A. Yes.

Q. And what were the circumsta ces of that?

A. The circumstances was it was a—let me correct that. I'm thinking about this because the occasions that. I observed this happening, it was Mestres from Brazil who distributed the tea, not me. Within the United States we were—I was very conscious and aware that the practice of the distribution the tea to minors would be something that could legitimately raise questions and concerns. So as a general practice, we did not allow American kids to come and participate in ceremonies. When [158] they did, it was only in rare situations, and very special events where, you know, there was a large number of people in attendance, and they would be given a very, very small amount.

Q. But you believe that has happened on occasion?

A. I do.

Q. Is that a policy that is set by you for all of the congregations, or is that a policy that each person who is responsible for each of the individual congregations decides for himself?

A. It is a policy that I made in terms of the UDV congregations in this country.

Q. It is a rule, not just a recommendation; is that accurate?

A. Thankfully, recommendations of this order are followed within the UDV. There is no written rule that says it has to be this way. But to my knowledge, that recommendation and request that I have made has been explicitly followed by the UDV communities.

Q. As much as it may sound this way, I don't always think that a rule has to be written down. And I could see you saying to these Mestres, "You have to do it this way." And even if you conveyed that [159] orally, I would still consider that a rule. I would distinguish that from saying, "My suggestion to you is that you not give hoasca to children under the age of 18." Which category does this fall into?

A. It is much stronger than a suggestion. I made it very clear in terms of my judgment of until our practice was legitimately recognized and fully protected under the laws of this country, that it could—legitimate questions could be asked about the involvement of minors under the age of 18, and my recommendation was that we did not, other than the children who had grown up in Brazil, or under extremely rare circumstances, that we weren't involved in the distribution of the tea to minors in this country.

Q. Except under very special occasions?

A. Correct. And those special occasions were very, very small amounts.

Q. Has hoasca been given to pregnant women?

A. Yes.

Q. I recognize this may be a policy that has changed over time, so if you could tell me the circumstances

under which pregnant women have received hoasca over the years in this country?

A. Generally, within the practice of the UDV [160] it is common for women to—who wish to receive the communion of the vegetal all throughout their pregnancy. This was a practice that has gone on in Brazil since the beginning of the UDV, and continues to this day. So there was some information that was given in Dr. Glacus' deposition that I considered incorrect. Since you have asked, I would like to set the record straight. It is, again, common practice within the UDV for women to receive the tea throughout their pregnancy.

Q. In the US, as well?

A. Generally, we were dealing with women who were experienced with—within the UDV who became pregnant and wanted to drink the tea during the course of their pregnancy. This was done as a part of the regular practice of the church.

Q. Dr. Lenderts got that wrong too, didn't he, because I thought he said the same thing as Dr. Brito? I think Dr. Brito said during the first three months, and the last month, that the hoasca is not recommended. And I believe Dr. Lenderts said it was the first—he may have said trimester, and then the last two months. I believe that is what he said, and that was not correct?

A. Not correct.

[161]

MS. HOLLANDER: I think Dr. Lenderts said it was recommended. Dr. Brito said it was a rule.

A. The recommendation, that is the part that is incorrect about Dr. Brito's testimony. The recommen-

dation of the Department of Medical and Scientific Studies is particularly for women who are not experienced with the use of the tea, that the tea not be given during the first and third trimester, and that was a recommendation that was made from the Department of Medical Studies to the Council of General Representation.

Q. And that is throughout the first trimester and throughout the third trimester?

A. That was the recommendation for people newly experienced with the tea.

Q. Was there a separate recommendation for people who were more experienced?

A. It was accepted as a general recommendation by the Council of General Representation of the UDV, with the knowledge that the common practice of the UDV has been to distribute the tea to women throughout their pregnancy, and that that practice continues to this day. So his representation that this was a rule that somebody could be sanctioned for if they didn't follow, was incorrect.

* * * * *

[166]

wanted to ask, but I'm afraid to ask because they are too open ended. I'm interested in everything you have to say, it is just that I know we are short on time.

A. I'll do my best to give succinct answers, and if you want to know more, you can ask more.

Q. All right. I may have to cut you off on this one. How does hoasca affect you?

A. There are many different levels that—

Q. Please don't cry. I can't take it.

A. I'm not going to cry, at least not right now.

Hoasca is my link to the divine. Hoasca opens my heart and it opens my awareness to be able to perceive, feel and know the divine nature of reality and of my own self and my own life. It is a blessing from God. It is an instrument of my spiritual development and evolution. It is—-the effect is one of making me more self-aware and more in harmony with the world around me. And there is more, but that is enough for now.

Q. That was beautiful.

Is the effect different on different occasions?

A. In some ways yes, and in some ways no. The [167] way that—within the general experience that I described, presents itself on any given day is different. For example, in terms of becoming more self-aware, on some occasions the entire session might be spent becoming self-aware of things that I need to look at in terms of my own conduct, in terms of my own behavior, in terms of my relationship to my family. That's what the focus of the whole session is.

And in another session I might be more in touch with the divine and the glory of God rather than my own particular circumstances.

So there is a continuum of possible experiences within which experience and effects are pretty consistent, but specifically from session to session you see different things. I don't think I have ever been in two sessions that have been the same over the several hundred that I have participated in.

Q. And in terms of the strength of the effect on you, can the same quantity of the same batch of hoasca have a different effect on different occasions?

A. I would—again, "effect" here is difficult to describe and define.

[168]

Q. Whatever that effect is. I don't need you to necessarily define the effect, but whatever it is, does the intensity of that effect vary?

A. It varies within a range. I was talking about this with Dr. Lenderts when he came home after the—after his deposition. For people who have experience with the tea, there is a much more predictable range of experience that they will encounter than for someone who is maybe drinking for the first or second or third time.

For example, if I have been working really hard, and I have been up several nights really, really late and I were to drink a given amount of hoasca, I might experience its affects more strongly then if I'm well rested and haven't been under a lot of stress. Yes, even for me, and other Mestres with a lot of experience, the amount you drink and the effect it will have on you will vary from session to session.

Q. Dr. Lenderts said that hoasca can cause you to perceive objects with the visual apparatus that would not be perceived by someone not using hoasca. Do you ever experience that affect when drinking hoasca?

A. That was another thing we talked about [169] afterwards, because I didn't agree with his choice of words.

There are two different kinds of seeing that I make a distinction of. One is seeing with the visual apparatus, in terms of what you see with your eyes, with your eyes open. And there is another kind of seeing, of what you would see, in kind of a quality of meditation, kind of with your inner sight, I guess, is a distinction.

There are traditions—mystic traditions, for example, in India that speak of the third eye, which is what one perceives when one's visual apparatus is closed—your eyes are closed.

So when I speak of seeing things within the burracheira, I'm talking about with my eyes closed, perceiving things within my consciousness, seeing with the eyes of my awareness, with the inner eyes of sight. That I don't consider the visual apparatus. That I consider the apparatus of inner perception, I guess, of spiritual perception. So when one—when I drink, hoasca, what I perceive from the effects of the tea is within me. It is not with my eyes open. I'm not seeing imaginary things that aren't there. It is within the eyes and sight of my consciousness. Spiritually, I perceive things within myself.

[170]

Q. And so it is never—that has never happened with you, your eyes have perceived something with your visual apparatus that would not be perceived by someone not drinking hoasca?

A. That's correct. It doesn't work that way.

Q. For you it doesn't work that way?

A. Yes. It is really fascinating to me because of that. I really—when I was first new to the UDV in

drinking the tea, I would sometimes have beautiful visions of things that I was seeing, and I would open my eyes and they would be completely gone, and it was as if there was nothing there. And I would go back and close my eyes again, and it was as if I was vividly dreaming when I was awake. But the moment I opened my eyes, what I was perceiving would not be perceived outside of myself.

Q. Well, apparently Dr. Lenderts sees things with his visual apparatus that other people wouldn't see.

Do some people, to your knowledge, other than Dr. Lenderts, perceive things with their visual apparatus that people not using hoasca wouldn't see? I understand it has a different effect on different people.

A. As I was describing to him how I would have [171] answered that question, he felt that what I was perceiving was with my visual apparatus, because if you are going to see something, in his way of understanding, it is only the visual apparatus that allows us to see, whether your eyes are opened or closed. So I'm not sure he was suggesting that with his eyes opened he was seeing things that other people who drank hoasca were perceiving. You might have to clarify that with him. It could be he was talking about the same phenomenon I was talking about, just using different language to describe it.

Q. Well the visual apparatus would imply eyes, wouldn't you think?

A. That is why I took issue with his response.

MS. HOLLANDER: Unfortunately, some of our assumptions are not always correct. I would have thought that, too. Maybe that is not what he meant.

A. Because I gave him the example—I said, I believe that somebody who can't see, in terms of having their visual apparatus functioning, would still be able to perceive certain qualities of illumination after they drink the tea, whether or not they had ever seen anything with their eyes open. So to me their visual apparatus may not be functioning, but they still could perceive, through the help of [172] the tea, this inner dimension of light and consciousness.

He wasn't sure if that was true. So that is where we had different uses of the same term.

Q. Well, that doesn't seem like different uses of the same term. It seems like whether or not it could occur, and if it did occur, he would call that visual apparatus, or would he call that something else?

A. Exactly.

Q. Do you know whether anybody else in the UDV sees things with their actual visual apparatus that people without drinking the hoasca would not see?

MS. HOLLANDER: Do you mean—just to clarify, rather than using Dr. Lenderts' terms, do you mean with their eyes open?

MS. GOITEIN: Yes.

MS. HOLLANDER: I think that is probably a clearer term.

MS. GOITEIN: It is not entirely, because I would imagine your inner eye is open, and you could be seeing things with your inner eye, even with your eyes open. That would meet the definition I'm talking about. I'm talking about things you perceive with your eyes, when your eyes are open—your [173] actual, full-blown eyeballs, that you see with, that people who are not drinking hoasca would not see? Do you know if this occurs with other UDV members?

A. Yes, and I'll give you an example.

There is a phenomenon which has been described among religious traditions of auras, of a perception of a magnetic field that surrounds us. There is a kind of photography called Kirlian photography, through which you could photograph or register, I guess, on photographic paper would be a more accurate way of describing this, the emanation of energy from the electromagnetic field of the human body.

There have been times where this has been perceived by people in terms of what they have described as auras, or a radiance of light that can on occasion surround people.

That is why you see pictures in the literature of holy people having this halo of light around them. It is an emanation of spiritual force, of divine energy. There have been times where through the inner eye, with the eyes open, one can perceive emanations of light around people. That is something that people have described to me that they have experienced.

[174]

Q. I've read accounts, and you'll just have to take my word, where people have said they have seen actual objects, not just emanations of light, but they have seen snakes. They have seen people. And I have no particular reason to trust these things that I have read any more than I trust you—

A. Or any less.

MS. HOLLANDER: Do you mean accounts of people in the UDV?

Q. I'm not sure which. I know I have read accounts of people using ayahuasca. I don't know if these were people within the UDV or not, seeing actual objects. Snakes is the one that I particularly recall.

Do you know if that type of vision-visualizing an actual object, not just an emanation—

MS. HOLLANDER: With their eyes open? You have to be clear. I don't know what you are saying.

Q. Okay. I don't know how he would know if the person's eyes were open or not, but let's say with your eyes open—well, both, let's ask both. Either with the eyes open or closed, and you'll have to tell me, you know, which it was—have you heard of people, or known of people in the context of a UDV [175] session who have had that kind of a vision?

A. I can't say with certainty that it has never happened, that somebody has had a perception of something with their eyes open that somebody who hadn't drank the tea would not have seen. I can't say that it never happens.

What is commonly experienced within the UDV is perceptions with one's eyes closed of inner dimensions of spiritual perception and reality that do not appear when one's eyes are opened.

I have also read descriptions, similar to what you describe, of people who claim to have seen things when drinking ayahuasca, not hoasca within the UDV, but preparations they call ayahuasca, which have appeared very strange and very different to me than the experiences of what we have within the UDV.

So to the extent it may have happened at some point within the UDV, I consider that it is very rare and uncommon. It is not what happens within the sessions.

Q. Dr. Grob has said that hoasca can cause visual—I believe he said perceptual distortions up to overt hallucinations. Do you agree or disagree?

A. I disagree with that, but I would have to understand better what he meant, and I'm looking [176] forward to his deposition when he explains what he meant on that one. Because Dr. Grob on his—in his published writing has described "hoasca" as the Portuguese word for "ayahuasca."

Q. Has Dr. Grob done any research, to your knowledge, with anybody other than UDV members?

A. Actual scientific research, no. In terms of reading literature and hearing anecdotes and descriptions, certainly.

Q. Does hoasca alter your judgment in the short term?

A. I would consider that it enhances one's judgment.

Q. If you had just consumed the amount of hoasca that you consume in a session, would you consider it inadvisable to drive a car?

A. If I just consumed it?

Q. An hour ago. If an hour ago you consumed the amount of hoasca you consume in a session, would you consider it inadvisable to drive a car?

A. I would much rather be sitting quietly concentrating in a religious service than driving.

Q. That wasn't my question. Would you consider it inadvisable to drive a car? And I'm going to use the term "under the influence of hoasca" [177] and I apologize for any connotations that term has, but I don't know how else to put it.

A. The simple answer to your question is yes. The more elaborate answer is this, under conditions of necessity if somebody had to, in order to respond to some sort of situation of clear necessity, not just because they wanted to go for a drive. Let's say you were in a session, you drank the tea, your wife went into labor, and you need to get her to a hospital. Under circumstances like that, I think a person could function perfectly in terms of doing what was required to do. But would it be advisable under normal circumstances? No.

Q. Similar question, if an hour ago you had consumed the amount of hoasca you consumes in a session, would you consider it inadvisable to be left in charge of the care of an infant?

A. Again, if I knew that I was going to be in charge of an infant's care, I would drink an amount of hoasca that would allow me to function effectively with the range of possibilities of what might happen. If it was not going to be my responsibility to be in charge of an infant, the amount I would drink would be different.

Q. And in what sense would you be unable to * * *.

* * * * *

[206]

Q. Is there a system for monitoring the general health of UDV members by the UDV?

A. No. The UDV exists for the spiritual benefit of its members. We are not a medical institution.

Q. Insert spiel?

A. Insert spiel.

Q. At any given time do you know what medications each member is taking?

A. At any given time, no. Generally, if people are concerned about some medication that they are taking, they might come to me and say, "I'm on antibiotics for this reason," or "I'm taking this medication. Are you aware of there being any issue with that?" I'm not saying everybody always comes to me with every medication they are taking.

Q. Someone could potentially be taking one of the medications that are contraindicated and you would not necessarily know?

A. I think it is really unlikely, because we screen—at this point the ones of the greatest concern, in terms of medicines that are contraindicated, are medicines prescribed by psychiatrists for uses related to mental health. Those are the list of medications that have the * * *.

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[210]

Q. Are there any dietary restrictions that are recommended or enforced?

A. No. There is recommended—there is, in terms of the consumption of pork, is not recommended.

Q. Is that for medical reasons or spiritual reasons?

A. Spiritual reasons, but I believe there are medical reasons for them, as well. If you go back to the Jewish law, the word "kosher" means is "clean." There were certain foods considered to be not kosher.

Q. I never touch the stuff.

Are there certain health problems—let's go back to the dietary restrictions. Do you know about the issues with Teramine, or the speculative, I should say, issues having to do with MAOI inhibitors and foods containing Teramine?

A. I lave heard these issues have been raised theoretically. But through the years of being involved we have seen no evidence in practice that this is a reasonable concern.

Q. Are there certain health problems among UDV members that you are required to report to someone else?

A. I think if someone were to have what was perceived as a psychotic episode within a UDV [211] session, this would be something we would be asked to bring to the attention of DEMEC so we could keep track of any such instances.

Q. What has DEMEC specifically asked you to keep track of? Have they specified that you must let us know about X and Y?

A. Yeah. There was a set of recommendations that were published by DEMEC, which I believe occurred after the suspension of the tea that involved reporting on incidents that are described as—where certain observable elements have occurred. There is a list of those. But in the time that we were distributing tea in

this country, there was no incident I felt the need to report.

Q. And there was no requirement, either during the time you were holding sessions in this country; is that right, there was no notification requirement?

A. I believe they were beginning to put in place a practice where they had requested notification so that they could begin to monitor these. But as far as a requirement, again, health spiel. We are a religious institution, and to the extent these protocols are being established, they are there in support of the primary function of the church, which is the religious experience. We don't [212] exist to monitor the health of our members, nor do we have reporting requirements about any health problems that our members have.

Q. And you did not—during the time that you were conducting sessions in this country, you did not personally report any health issues?

A. That is correct.

Q. Do you know if any other people in responsible positions in the United States ever reported any health issues?

A. I don't know. I think it is unlikely that I would not have been told if they had, but I can't say for sure that they didn't.

Q. How familiar are you with the way the process works now with the notification requirement? Have you kept up with that?

MS. HOLLANDER: I'm going to object. You keep calling it a "notification requirement," and he keeps responding that it is not a requirement.

MS. GOITEIN: What shall I call it?

MS. HOLLANDER: I think it is a recommendation.

A. We could call it a notification system.

Q. Are you familiar with the notification system?

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Q. Do you have any reason to think that the government of the United States is targeting the UDV religion in its prohibition of hoasca use? Do you have any factual basis for believing that?

A. I believe that it is targeting the religious use. I don't believe, necessarily, it is targeting the UDV, specifically, but I believe it has targeted the religious use.

Q. What is your basis?

A. The two seizures that took place, and the information that we have been given from—as an institution in Brazil, of pressure from the State Department and pressure from the US government to try to make the use of the sacrament illegal in Brazil, where it is only legal for religious purposes.

Q. What is that information you have been given?

A. There was a special meeting of the Conad, C-0-N-A-D, which is the national drug council in Brazil, that was called, I believe in March of this year, where the issue of the religious use of the tea and issues of possible commercialization of it in Brazil were to be treated and discussed. There was a UDV member who was a congressman, who was present at this meeting.

[329]

At that meeting, it was only admitted that the meeting came about as a result of pressure from the State Department, the American Embassy in Brazil, in relationship to the subject of the religious use of the tea.

Since this happened, subsequent to our filing of the lawsuit, whereas over many years the United States had not shown any interest in this subject before, it became pretty clear to us that the United States was not merely targeting the concern about dimethyltryptamine, but they were specifically directing the considerable resources of the American government towards the prohibition of a religious practice that was protected under the Constitution of another country, and this is of grave concern to me.

Q. You are looking at the considerable resources of the United States government, and it ain't that considerable.

A. With all due respect, Ms. Goitein, if you were the only one who were involved with this, it would be a different conversation.

I'm very aware there are resources well beyond you that are being employed by the government of the United States, whether it is to your knowledge or not, with relation to this prohibition.

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[330]

Q. As to the Conad meeting where you say it was only admitted—admitted by whom?

A. The president of Brazil's antidrug council.

Q. What did he describe that pressure as being?

A I don't have his specific words. I'm not aware of what he specifically said.

Q. Did he say the government has asked us to hold this meeting?

MS. HOLLANDER: I'm going to object. This is—to the extent he knows, he can answer, but I don't think he knows the exact words. He wasn't there.

Q. I don't mean the exact words.

When you say they admitted it was a result of the United States government's pressure, that is pretty vague. I'm asking, do you know any more specifically than that, what kind of pressure, or whether that was discussed?

A. I don't believe that it was only discussed, and I do not have specifics about what that pressure was.

Q. Do you have any other information about representatives of the United States government contacting Brazilian authorities on the subject [331] matter of trying to clamp down on the uses or export of the tea?

MS. HOLLANDER: Do you mean in addition to what we leave received from you in discovery?

MS. GOITEIN: If you count that, sure.

A. In response to the government's—oh, there is one other piece of information.

There were minutes of this meeting that were drafted and not published within the official register of Brazil, that I have seen. Copies of the minutes of this meeting were sent to numerous people who were present, and there was a copy sent to the US Embassy in Brazil. It wasn't sent to the embassy of Holland, or the

Belgian Congo. It was sent to the embassy of the United States. Presumably the United States government is very interested in this subject.

Q. Are there other ayahuasca—using sects in Brazil that are related to the UDV?

A. Please define "related."

Q. Have any kind of affiliation.

A. The UDV is one institution, with one board of directors and one structure that is unique and distinct. There are other ayahuasca-using groups in Brazil that we have knowledge of and relations with.

Prior to the liberation of the religious [332] use of the tea by the Confan, C-O-N-F-A-N, which was the federal narcotics council in 19—in the late1980s and early 1990s, there was a meeting held by the authorities, the Confan—the president of the Confan facilitated this meeting. At this meeting there were a number of groups that used hoasca, ayahuasca, Dime, different substances similar to the sacrament that we use, that were invited to participate in this meeting, which I believe you have a copy of the principles that were agreed on at that time.

So the Uniao do Vegetal, as an institution, retains friendly relations with many of the groups that use the tea in Brazil, and is respected as an ally and friend by many of them.

Q. But there aren't other branches of the UDV within Brazil?

A. There are not other branches of the UDV.

There are people who—who at one time who had been members of the UDV, who left and started there

own sects, and in some cases have used the name Uniao do Vegetal, even though they don't have the right to do so, nor do they have anything legally or spiritually to do with the Uniao do Vegetal.

Q. So there is not just this one crazy guy * * *.

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[Plaintiffs' Exh. 111]

CONGRESSIONAL RECORD

PROCEEDINGS AND DEBATES OF THE
89TH CONGRESS FIRST SESSION

[111 Cong. Rec. 15,977 – 15,978 (1965)]

* * * * *

[15,977] been debated on the floor of the House for 2 days before publication of this inaccurate editorial. The Rules Committee reported out the voting rights bill on July 1, a week before the Washington Post reported editorially that "no harm will be done if the country lets the committee know that it is waiting somewhat impatiently for the legislative traffic cop to get the voting rights vehicle on the road."

Mr. Speaker, under unanimous consent I include in my remarks the editorial entitled "Lull on Voting Rights" which was published in the Washington Post today, Thursday, July 8.

[From the Washington Post, July 8, 1965]

LULL ON VOTING RIGHTS

What has happened to the voting rights bill? Some months ago this measure began its journey through Congress with a great deal of steam behind it. After a long debate the Senate passed the bill on May 26, and the House Judiciary Committee reported out a somewhat different bill on June 1. Since then virtually nothing has been heard of the bill, even though it was supposed to be moving through Congress at an emergency pace.

Experienced observers of the Washington scene who know where to look when they encounter delay will turn at once to the Rules Committee. Their instinct will be entirely right. The supposed traffic director on the legislative highway just sat on the bill for more than 3 weeks. Then it began hearings on June 24, as if it had the responsibility of duplicating the extensive work of the Judiciary Committee.

There are some indications that the bill may emerge the latter part of this week. If so, there may be plenty of time for the House to pass it and for conferees to adjust the serious differences between the two Houses in regard to abolition of State poll taxes and other features before the pre-adjournment rush begins. But it will be well to keep an eye on the gentlemen who manage the rules. Even in its current reformed status, the committee is capable of mischief on a broad scale. No harm will be done if the country lets the committee know that it is waiting somewhat impatiently for the legislative traffic cop to get the voting rights vehicle on the road.

DEVELOPMENT OF THE NATION'S NATURAL RESOURCES

Mr. ASPINALL submitted a conference report and statement on the bill S. 21, to provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of a water resource council and river basin commissions, and by providing financial assistance to the States in order to

increase State participation in such planning; which was ordered printed.

TO ESTABLISH CONTROLS FOR DEPRESSANT AND STIMULANT DRUGS

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2) to protect the public health and safety by amending the Federal Food, Drug, and Cosmetic Act to establish special controls for depressant and stimulant drugs and counterfeit drugs, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 17, strike out (A).

Page 3, line 21, strike out all after "4761)" down to and including "organization" in line 23.

Page 3, line 25, strike out all after "shall" over to and including "committees," in line 1 on page 4.

Page 7, line 8, after "household." insert: "In any criminal prosecution for possession of a depressant or stimulant drug in violation of this subsection (which is made a prohibited act by section 301(8)(3)), the United States shall have the burden of proof that the possession involved does not come within the exceptions contained in clauses (1) and (2) of the preceding sentence."

Page 11, strike out all after line 13 over to and including line 24 on page 15 and insert:

"(g)(1) The Secretary may, from time to time, appoint a committee of experts to advise him with regard to any of the following matters involved in determining whether a regulation under subparagraph (2)(C) or (3) of section 201(v) should be proposd, issued, amended, or repealed: (A) whether or not the substance involved has a depressant or stimulant effect on the central nervous system or a hallucinogenic effect, (B) whether the substance involved has a potential for abuse because of its depressant or stimulant effect on the central nervoous system, and (C) any other scientific question (as determined by the Secretary) which is pertinent to the determination of whether such substance should be designated by the Secretary pursuant to subparagraph (2)(C) or (3) of section 201(v). The Secretary may establish a time limit for submission of the committee's report. The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsections (b)(5)(D), and the admissibility of their reports, recommendations, and testimony at any hearing involving such maters shall be determined in accordance with subsection (d)(2), of section 706. The appointment of such a committee after publication of an order acting on a proposal pursuant to section 701(e)(1) shall not suspend the running of the time for filing objections to such order and requesting a hearing unless the Secretary so directs.

"(2) Where such a matter is referred to an expert advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by

way of reimbursement of the applicable appropriations) the expenses of advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations."

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. SPRINGER. Mr. Speaker, reserving the right to object. I would expect the chairman of the committee, the gentleman from Arkansas [Mr. Harris] to give an explanation of the amendments.

Mr. HARRIS. Mr. Speaker, if the gentleman will yield, I shall be glad briefly to explain.

Mr. Speaker, the Senate amendments to H.R. 2, the Drug Abuse Controls Amendments of 1965, make three changes in that bill.

The bill provides greater controls over depressant and stimulant drugs and makes possession of these drugs outside of the legitimate channels of trade a criminal offense, except if the possession is for the personal use of the possessor or a member of his household, or for administration to an animal owned by him or a member of his household.

The first amendment which I will discuss provides that in criminal prosecutions involving the possessor of drugs, the burden of proof shall be upon the United States, that the possession is not within the exceptions stated. This amendment is in the nature of a clarifying amendment and is consistent with our intent in passing the bill.

The second amendment which I will discuss involves the use of advisory committees to make scientific deter-

minations with respect to the coverage of drugs under this legislation. Under the bill as passed by the House, advisory committees were required to be appointed upon the request of any interested person and could have been utilized to delay the effectiveness of orders issued by the Secretary.

The Senate amended this provision to make the appointment of advisory committees discretionary with the Secretary, but encouraged the use of outside consultants by the Secretary. It is my understanding that this amendment is not objected to by the industry, and I suggest its approval.

The last amendment of substance made by the Senate deletes the provision of the House bill which provided that the term "depressant or stimulant drug" does not include peyote used in connection with ceremonies of a bona fide religious organization.

Some concern has been expressed to many by the religious groups affected, and by certain civil liberties organizations concerning the possible impact of this amendment on religious practices protected by the first amendment to the Constitution.

Two court decisions have been rendered in this area in recent years. One, a decision by Judge Yale McFate in the case of *Arizona* v. *Attakai*, No. 4098, in the superior court of Maricopa County, Phoenix, Ariz., July 26, 1960; and a California decision, People against Woody, decided August 24, 1964, in the Supreme Court of California. Both these cases held that prosecutions for the use of peyote in connection with religious ceremonies was a violation of the first amendment to the Constitution.

In view of all this, I requested the views of the Food and Drug Administration and have been assured that the bill, even with the peyote exemption appearing in the House-passed bill, cannot forbid bona fide religious use of peyote.

Mr. Speaker, I ask unanimous consent to include the letter from the Food and Drug Administration at this point in my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The letter referred to is as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, FOOD AND DRUG ADMINISTRATION,

Washington D.C., July 2, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce.
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request we are stating the position the Food and Drug Administration expects to take if H.R. 2 becomes law as it passed the Senate, with respect to the use of payote in religious ceremonies.

We have been advised by a representative of the North American Church that this church is a bona fide religious organization and that peyote has bona fide use in the secrament of the church. The representative has agreed to document both of these statements.

If the church is a bona fide religious organization that makes sacramental use of peyote, then it would be our view that H.R. 2, even without the peyote exemption which appeared in the House-passed version, could not forbid bona fide religious use of peyote. We believe that the constitutional guarantee of religious freedom fully safeguards the rights of the organization and its communicants.

Sincerely yours,

GEORGE P. LARRICK,
Commission of Food and Drugs.

Mr. HARRIS. Mr. Speaker, in view of the foregoing, I recommend that the House agree to the Senate amendments to H.R. 2.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, did the gentleman from Arkansas say that one of these amendments encouraged the use of outside consultants?

Mr. HARRIS. The bill, as considered by the other body, provided for advisory committees in the discretion of the Secretary. The report suggested to the Department tht outside consultants be used. It did not become a part of the amendment or the bill.

Mr. GROSS. In all conscience I cannot conceive of a conference committee or a committee of either the House or the Senate, encouraging any agency or department of the Government to use consultants, because they will do that without any encouragement. Why give them encouragement to put more people on the payroll by this indirect method?

Mr. HARRIS. May I remand the gentleman that on scientific questions it is necessary to obtain informatfon, and advisory committees and consultants are useful for this purpose. But I would also emphasize that it is not included in the House report, nor is it included in the bill. This was a reference in the Senate report which suggested that this action be approved by the Secretary of the Department of Health, Education, and Welfare.

Mr. SPRINGER. Mr. Speaker, I believe the Senate amendments have resulted in the best compromise that we could get. The amendments should be accepted.

Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PRIVILEGE OF THE HOUSE

The SPEAKER. The Chair recognizes the gentleman from Oklahoma [Mr. ALBERT].

Mr. ALBERT. Mr. Speaker, I rise to a question of the privilege of the House.

The SPEAKER. The gentleman will state the question of privilege.

Mr. ALBERT. Mr. Speaker, in my official capacity as a Representative and as majority leader of this House, I have been served with a summons issued by the U.S.

District Court for the District of Columbia to appear in connection with the case of the All-American Protectorate, Inc. against Lyndon B. Johnson, and others.

Under the precedents of the House, I am unable to comply with this summons without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send to the desk the summons.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

SUMMONS FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

(*The All-American Protectorate, Incorporated, Plaintiff* v. *Lyndon B. Johnson, Individually and as President of the United States of America; Mike Mansfield, Individually and as majority leader of the U.S. Senate; Everett M. Dirksen, individually and as minority leader of the U.S. Senate; John W. McCormack, individually and as Speaker of the U.S. House of Representatives; Carl B. Albert, individually and as majority leader of the U.S. House of Representatives; Gerald R. Ford, individually and as minority leader of the U.S. House of Representatives, defendants).*

To the above-named defendant, CARL B. ALBERT, individually and as majority leader of the U.S. House of Representatives:

You are hereby summoned and required to serve upon Lovell W. George plaintiff's attorney, whose address 8015 Forsyth Boulevard, Clayton, MO., an answer to the complaint which is herewith served upon

you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

[SEAL OF COURT]

Harry M. Hull,
Clerk of Court.
Amelia G. Shannon,
Deputy Clerk.

Date June 25, 1965

Mr. GERALD R. FORD. Mr. Speaker, I rise for the same purpose as the distinguished majority leader and I would like to read a statement.

Mr. Speaker, in my official capacity as a Representative and as minority leader of this House, I have been served with a summons issued by the U.S. District Court for the District of Columbia to appear in connection with the case of the All-American Protectorate, Incorporated, against Lyndon B. Johnson et al.

Under the precedents of the House, I am unable to comply with this summons without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send to the desk the summons.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

SUMMONS FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

(The All-American Protectorate, Inc., plaintiff v. *Lyndon B. Johnson, individually and as President of the United States of America, Mike Mansfield, individually and as majority leader of the U.S. Senate, Everett M. Dirksen, individually and as minority leader of the U.S. Senate, John W. McCormack, individually and as Speaker of the U.S. House of Representatives, Carl B. Albert, individually and as majority leader of the U.S. House of Representatives, Gerald R. Ford, individually and as minority leader of the U.S. House of Representatives, defendants.)*

To the above-named defendant, GERALD R. FORD, individually and as minority leader of the U.S. House of Representatives:

You are hereby summoned and required to serve upon Lovell W. George, plaintiff's attorney, whose address 8015 Forsyth Boulevard, Clayton, Mo., an answer to the complaint which is herewith served upon you within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

[SEAL OF COURT]

Harry M. Hull,
Clerk of Court.
Amelia G. Shannon,
Deputy Clerk.

Date: June 25, 1965

The SPEAKER. The Chair, in his official capacity as Speaker of this House, has been served with a summons issued by the U.S. District Court for the District of Columbia to appear in connection with the case of the *All-American Protectorate, Incorporated v. Lyndon B. Johnson et al.*, civil action file No. 1583-65.

Under the precedents of the House, the Chair is unable to comply with this summons without the consent of the House, the privileges of the House being involved. The Chair therefore submits the matter for the consideration of this body.

The Clerk will read the summons.

The Clerk read as follows:

SUMMONS FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

(The All-American Protectorate, Inc., plaintiff v. Lyndon B. Johnson, Individually and as President of the United States of America, Mike Mansfield, individually and as majority leader of the U.S. Senate, Everett M. Dirksen, individually and as minority leader of the U.S. Senate, John W. McCormack, individually and as Speaker of the U.S. House of Representatives, Carl B. Albert, individually and as majority leader of the U.S. House of Representatives, Gerald R. Ford, individually and as minority leader of the U.S. House of Representatives, defendants)

To the above-named defendant, JOHN W. MCCORMACK, individually and as Speaker of the U.S. House of Representatives:

You are hereby summoned and required to serve upon Lovell W. George plaintiff's attorney, whose address 8015 Forsyth Boulevard, Clayton, Mo., 63105, an answer to * * *.

* * * * *

[Plaintiffs' Exh. 112]

Centro Espírita Beneficente
União do Vegetal
176 Valley Drive
Santa Fe, NM 87501
(505) 988-9524
FAX (505) 982-5029

Mr. Jonathon Gerson
Mr. Charles Barth
Office Of the US Attorney
Albuquerque, New Mexico
87501

June 9, 1999

Dear Sirs,

It is my understanding that on behalf of the Government and the People of the United States, a situation concerning the institution I represent has been brought to your attention. The purpose of this letter is to introduce myself to you personally, express to you my interest in cooperating with you and your office and to initially explain to you some important information regarding this case.

On Friday the 21st of May, the US Customs Service arranged for the delivery and then seizure of a shipment of tea made from two plants indigenous to the Brazilian Amazon. This tea is a sacrament fundamental and essential to the religion that I follow, the União do Vegetal.

The União do Vegetal, or as it is sometimes abbreviated, UDV, was founded on July 22, 1961, and has its headquarters in Brasilia, Brazil. Growing throughout

that country, it has temples in more than 70 cities and a membership of more than 7000 disciples. Among our members exist many physicians, military officers, government representatives (both elected and appointed), University professors, law enforcement officers, and lawyers. Our religion is based upon the development of strong families, raising our children to be active and responsible citizens in their communities. In Brazil, we are a very highly honored and respected religious center.

Our center incorporated in the United States in February of 1993 and received recognition as a church by the appropriate authorities in this country in May of the same year. We have, in fact, been conducting and developing our work in this country now for more than eleven years.

The tea that was confiscated, in our religion, is considered to be sacred. Within our rituals it is used to promote mental concentration, quiet introspection, and spiritual understanding. Under the very strict laws of our center, it is never used outside of the ritual religious context.

As we understand and utilize it, the tea is not a drug. It gives increased mental and physical health, is in no way addictive, and promotes the virtues of personal responsibility, honesty, and commitment to one's family. We recognize it as a gift, given to humanity by our creator, to assist us in our life on this earth as well as for the evolution of our spirits.

The effect of the use of this tea, within our rituals, is increased mental clarity and inner peace. Our members are kind, humble people, working for the good, developing virtues and living under the symbol of our union which is Light, Peace and Love.

We understand and share your concern regarding the use of drugs in our society. More than simply being concerned, however, as an institution the UDV has, in fact, helped thousands of people who at one time had abused drugs and alcohol become completely free of these vices. Our members do not drink or use drugs. The laws of our institution forbid it.

Similar governmental concerns came to light in Brazil in 1985. At that time the Brazilian authorities conducted a seven year, multi disciplinary study regarding the sacramental use of this tea within the UDV. Government appointed scientists, physicians, anthropologists, psychiatrists and theologians worked together in analyzing our practice. After several years of study the the Brazilian drug enforcement authority, CONFEN, found the use of the tea, within this ritual religious context, not only completely healthy for the practitioners but of demonstrable positive social benefit to the greater society. The right to practice our religion was at that time, and remains today, fully secured under Brazilian law.

It is my sincere hope, as well as the wish of our leadership in Brazil, that through this action which has occurred, the authorities in this country will come to understand and honor our religion. As you come to learn more about us, I am certain that you will recognize the goodness the UDV brings to its disciples and through them to the larger society. In time, I trust that you will come to see we are not an influence that in any way needs to be feared. To the contrary, we are a force that quietly brings great good into the communities where we live.

We seek a relationship of mutual understanding, cooperation and peace. I offer to you, as a representative sworn to uphold the constitution of this country, my commitment in any way I can help you understand my religion and the sacred, mysterious tea that we use in our communion. I am at your service, along with our church leadership in Brazil and the United States, to answer any and all questions in this regard.

Sincerely,

/s/ JEFFRY BRONFMAN
JEFFREY BRONFMAN,
US Representative
Centro Espirita Beneficiente União do Vegetal

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